

05-357-CD

Harold Roos Jr vs. Robert Bish et al

ROBERT W. BISH

AL

Harold Roos v. Robert Bish et al
2005-357-CD

Civil Other

Date		Judge
3/14/2005	New Case Filed.	No Judge
	Filing: Writ of Summons Paid by: Naddeo, James A. (attorney for Roos, Harold J. Jr.) Receipt number: 1897559 Dated: 03/14/2005 Amount: \$85.00 (Check)	No Judge
4/13/2005	Praeipie For Entry of Appearance, filed by Atty. Zaken Please enter appearance on behalf of Defendant Robert W. Bisch, Trish A. Zaken, Esq. and Laura L. Wallace, Esq. from the law firm of Walsh, Collis & Blackmer, LLC.	No Judge
	Praeipie for Rule to File Complaint, filed by Atty. Zaken no cert. Rule to File Complaint issued to Atty.	No Judge
4/22/2005	Sheriff Return, April 5, 2005 Served The Within Summons on Robert W. Bish. April 13, 2005 Served The Within Summons on Tri Mount, Inc. So Answers Chester A. Hawkins, Sheriff by s/Marilyn Hamm.	No Judge
5/2/2005	Proof of Service, Rule to file Complaint served on James Naddeo, filed by Trisha A. Zaken, Esquire. No CC.	No Judge
5/9/2005	Complaint, filed by s/James A. Naddeo, Esquire. 1CC Atty Naddeo	No Judge
5/20/2005	Certificate of Service, Copy of Answers to Interrogatories and Answer to Request for Production of Documents served upon Trisha A. Zaken, Esq. Walsh, Collis & Blackmer, LLC. Filed By James A. Naddeo, Atty. 1 CC	No Judge
5/26/2005	Answer and New Matter filed by s/ Trisha Zaken, Esquire. No CC	No Judge
6/1/2005	Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 1CC Atty. Naddeo	No Judge
12/27/2005	Certificate of Service, filed. That a certified copy of Plaintiff's Answers to Supplemental Interrogatories was served on Trisha A. Zaken Esq., on the 27th day of December, 2005, filed by s/ James Naddeo Esq. 1CC Atty Naddeo.	No Judge
2/23/2006	Notice of Intent to Serve Subpoena, filed by s/ Trisha A. Zaken Esq. No CC.	No Judge
3/13/2006	Order AND NOW, this 10th day of March, 2006, it is the ORDER of this Court that a Status Conference is scheduled for the 28th day of March, 2006 at 11:00 a.m. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 2CC Naddeo.	Fredric Joseph Ammerman
3/14/2006	Certificate of Service, filed. That a certified copy of Scheduling Order was served on the 14th day of March 2006 to Trisha A. Zaken, filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman
3/16/2006	Certificate of Service, filed. That a certified copy of Interrogatories Addressed to Defendants was served on Trisha A. Zaken Esq. on the 16th day of March 2006, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Fredric Joseph Ammerman
3/22/2006	Proof of Service of Subpoena to Social Security Administration, filed by s/ Trisha A. Zaken Esq. No CC.	Fredric Joseph Ammerman
3/30/2006	Order, NOW, this 28th day of March, 2006, being the date set for status conference, upon agreement of counsel, all discovery shall be completed within 90 days of today's date including an independent medical examination of Plaintiff by Defendant should Defendant request or require such examination. Further Ordered that upon expiration of the 90 day discovery period set forth herein either party may list this case for trial. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Naddeo, Zaken, Wallace. 1CC Tri Mount, 903 N. Front St. Philipsburg, PA 16866	Fredric Joseph Ammerman

Date: 8/27/2008

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:11 AM

ROA Report

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Case: 2005-00357-CD

Current Judge: Fredric Joseph Ammerman

Harold J. Roos Jr. vs. Robert W. Bish, Tri Mount, Inc.

Civil Other

Date		Judge
3/14/2005	New Case Filed.	No Judge
X	Filing: Writ of Summons Paid by: Naddeo, James A. (attorney for Roos, Harold J. Jr.) Receipt number: 1897559 Dated: 03/14/2005 Amount: \$85.00 (Check)	No Judge
4/13/2005	X Praecipe For Entry of Appearance, filed by Atty. Zaken Please enter appearance on behalf of Defendant Robert W. Bisch, Trish A. Zaken, Esq. and Laura L. Wallace, Esq. from the law firm of Walsh, Collis & Blackmer, LLC.	No Judge
X	Praecipe for Rule to File Complaint, filed by Atty. Zaken no cert. Rule to File Complaint issued to Atty.	No Judge
4/22/2005	X Sheriff Return, April 5, 2005 Served The Within Summons on Robert W. Bish. April 13, 2005 Served The Within Summons on Tri Mount, Inc. So Answers Chester A. Hawkins, Sheriff by s/Marilyn Hamm.	No Judge
5/2/2005	X Proof of Service, Rule to file Complaint served on James Naddeo, filed by Trisha A. Zaken, Esquire. No CC.	No Judge
5/9/2005	X Complaint, filed by s/James A. Naddeo, Esquire. 1CC Atty Naddeo	No Judge
5/20/2005	X Certificate of Service, Copy of Answers to Interrogatories and Answer to Request for Production of Documents served upon Trisha A. Zaken, Esq. Walsh, Collis & Blackmer, LLC. Filed By James A. Naddeo, Atty. 1 CC	No Judge
5/26/2005	X Answer and New Matter filed by s/ Trisha Zaken, Esquire. No CC	No Judge
6/1/2005	X Answer To New Matter, filed by s/ James A. Naddeo, Esquire. 1CC Atty. Naddeo	No Judge
12/27/2005	X Certificate of Service, filed. That a certified copy of Plaintiff's Answers to Supplemental Interrogatories was served on Trisha A. Zaken Esq., on the 27th day of December, 2005, filed by s/ James Naddeo Esq. 1CC Atty Naddeo.	No Judge
2/23/2006	X Notice of Intent to Serve Subpoena, filed by s/ Trisha A. Zaken Esq. No CC.	No Judge
3/13/2006	X Order AND NOW, this 10th day of March, 2006, it is the ORDER of this Court that a Status Conference is scheduled for the 28th day of March, 2006 at 11:00 a.m. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 2CC Naddeo.	Fredric Joseph Ammerman
3/14/2006	X Certificate of Service, filed. That a certified copy of Scheduling Order was served on the 14th day of March 2006 to Trisha A. Zaken, filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman
3/16/2006	X Certificate of Service, filed. That a certified copy of Interrogatories Addressed to Defendants was served on Trisha A. Zaken Esq. on the 16th day of March 2006, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Fredric Joseph Ammerman
3/22/2006	X Proof of Service of Subpoena to Social Security Administration, filed by s/ Trisha A. Zaken Esq. No CC.	Fredric Joseph Ammerman

Civil Other

Date		Judge
4/5/2006	Praeipie for Withdrawal Appearance, filed Kindly withdraw appearance of Laura L. Wallace and enter appearance on behalf of Defendants in the above-captioned case. s/Trisha A. Zaken no cert. copies.	Fredric Joseph Ammerman
4/17/2006	Praeipie For Entry of Appearance, filed. Kindly enter the appearance of Danielle M. Vugrinovich, Esquire on behalf of the Defendants in the above-captioned case, filed by s/ Danielle M. Vugrinovich Esq. NO CC., copy to C/A.	Fredric Joseph Ammerman
6/6/2006	Certificate Prerequisite to Service of a Subpoena upon 611 Open MRI & CT Pursuant to Rule 4009.22., filed by s/ Danielle M. Vugrinovich Esq. NO CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon Clearfield Hospital Pursuant to Rule 4009.22, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon Lewistown Hospital Pursuant to Rule 4009.22, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon Philipsburg Hospital Pursuant to Pa.R.C.P. 4009.21, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon University Orthopedics Center Pursuant to Pa.R.C.P. 4009.21, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
6/7/2006	Plaintiff's Motion in Limine, filed by s/James A. Naddeo, Esq. One CC Attorney Naddeo	Fredric Joseph Ammerman
6/12/2006	Rule, NOW, this 12th day of June, 2006, upon consideration of Petition to Enforce Settlement, a Rule is issued upon Defendant. Rule Returnable for written response on the 12th of July, 2006. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Naddeo	Fredric Joseph Ammerman
6/13/2006	Certificate of Service, filed. That copies of Plaintiff's Motion in Limine were served on Danielle M. Vugrinovich on the 13th day of June 2006, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Fredric Joseph Ammerman
6/19/2006	Certificate of Compliance with Subpoena upon 611 Open MRI & CT, filed by Fredric Joseph Ammerman s/ Danielle M. Vugrinovich Esq. No CC.	
	Proof of Service of Subpoena upon Lewistown Hospital, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon Philipsburg Hospital, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon Clearfield Hosptial, filed by s/ Danielle M Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon 611 Open MRI & CT, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon University Orthopedics Center, filed by s Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
7/10/2006	Defendants' Response to Plaintiff's Motion in Limine, filed by s/ Trisha A. Zaken Esq. NO CC.	Fredric Joseph Ammerman
7/19/2006	Certificate of Service, copy of Order was served upon Trisha A. Zaken, Esquire, on the 19th day of July, 2006 by first class mail. By The Court, /s/ James A. Naddeo, Esquire. 1CC Atty.	Fredric Joseph Ammerman

Civil Other

Date		Judge
3/30/2006	Order, NOW, this 28th day of March, 2006, being the date set for status conference, upon agreement of counsel, all discovery shall be completed within 90 days of today's date including an independent medical examination of Plaintiff by Defendant should Defendant request or require such examination. Further Ordered that upon expiration of the 90 day discovery period set forth herein either party may list this case for trial. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Naddeo, Zaken, Wallace. 1CC Tri Mount, 903 N. Front St. Philipsburg, PA 16866	Fredric Joseph Ammerman
4/5/2006	Praecipe for Withdrawal Appearance, filed Kindly withdraw appearance of Laura L. Wallace and enter appearance on behalf of Defendants in the above-captioned case. s/Trisha A. Zaken no cert. copies.	Fredric Joseph Ammerman
4/17/2006	Praecipe For Entry of Appearance, filed. Kindly enter the appearance of Danielle M. Vugrinovich, Esquire on behalf of the Defendants in the above-captioned case, filed by s/ Danielle M. Vugrinovich Esq. NO CC., copy to C/A.	Fredric Joseph Ammerman
6/6/2006	Certificate Prerequisite to Service of a Subpoena upon 611 Open MRI & CT Pursuant to Rule 4009.22., filed by s/ Danielle M. Vugrinovich Esq. NO CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon Clearfield Hospital Pursuant to Rule 4009.22, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon Lewistown Hospital Pursuant to Rule 4009.22, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon Philipsburg Hospital Pursuant to Pa.R.C.P. 4009.21, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Certificate Prerequisite to Service of a Subpoena upon University Orthopedics Center Pursuant to Pa.R.C.P. 4009.21, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
6/7/2006	Plaintiff's Motion in Limine, filed by s/James A. Naddeo, Esq. One CC Attorney Naddeo	Fredric Joseph Ammerman
6/12/2006	Rule, NOW, this 12th day of June, 2006, upon consideration of Petition to Enforce Settlement, a Rule is issued upon Defendant. Rule Returnable for written response on the 12th of July, 2006. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Naddeo	Fredric Joseph Ammerman
6/13/2006	Certificate of Service, filed. That copies of Plaintiff's Motion in Limine were served on Danielle M. Vugrinovich on the 13th day of June 2006, filed by s/ James A. Naddeo Esq. 1CC Atty Naddeo.	Fredric Joseph Ammerman
6/19/2006	Certificate of Compliance with Subpoena upon 611 Open MRI & CT, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon Lewistown Hospital, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon Philipsburg Hospital, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon Clearfield Hospital, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
	Proof of Service of Subpoena upon 611 Open MRI & CT, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman

Civil Other

Date		Judge
7/19/2006	Order, NOW, this 18th day of July, 2006, Ordered that argument upon Plaintiff's Motion in Limine is scheduled for the 5th day of September, 2006, at 9:00 a.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge	Fredric Joseph Ammerman
9/12/2006	Order, NOW, this 5th day of Sept., 2006, Plaintiff's Motion in Limine is dismissed, without prejudice. By The Court, /s/ Fredric J. Ammerman, Pres Judge. 1CC Attys: Naddeo, D. Vugrinovich, T. Zaken	Fredric Joseph Ammerman
10/4/2006	Notice of Service, filed. The Undersigned herein represents that Defendants Supplemental Answers to Plaintiff's Interrogatories were sent to James Naddeo Esq., on October 2, 2006, filed by s/ Trisha A. Zaken Esq. No CC.	Fredric Joseph Ammerman
10/25/2006	Plaintiff's Second Motion in Limine, filed by Atty. Naddeo, 1 Cert. to Atty.	Fredric Joseph Ammerman
10/30/2006	Order, NOW, this 26th day of Oct., 2006, Ordered that argument upon Plaintiff's Second Motion in Limine is scheduled for the 9th day of Nov., 2006, at 3:00 p.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty. Naddeo	Fredric Joseph Ammerman
11/1/2006	Certificate of Service, filed. That a copy of the Order and Plaintiff's Second Motion in Limine were served on Trisha A. Zaken Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
11/15/2006	Order, nOW, this 9th day of Nov., 2006, Plaintiff's Second Motion in Limine is granted to the extent that the Def., Robert W. Bish, is excluded from providing testimony regarding the circumstances of the automobile accident which occurred on June 27, 2003. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Naddeo & Vugrinovich	Fredric Joseph Ammerman
3/9/2007	Certificate of Service, filed. That a copy of the Plaintiff's Mediation Statemen was served on the 9th day of March 2007 to Trisha A. Zaken Esq. and John Noble Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
3/23/2007	Suggestion of Death, The death of Robert W. Bish, a party to the above-referenced action, in Nov. 2006, during the pendency of this action is noted upon the record. Filed by s/ Trisha A. Zaken, Esquire. No CC	Fredric Joseph Ammerman
4/24/2007	Certificate of Service, filed. That a copy of the Plaintiff's Answers to Second Set of Supplemental Interrogatories and Request for Production of Documents was served on the 24th day of April 2007 to Trisha A. Zaken Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
5/8/2007	Certificate of Service, filed. That a copy of the Interrogatories Addressed to Defendant (Set Two) was served on Trisha A. Zaken Esq on the 8th day of May 2007 filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
5/29/2007	Notice of Service, filed. That Answers and Objections to Plaintiff's Expert Interrogatories were sent to James Naddeo Esq. on May 25, 2007, filed by s Trisha A. Gill Esq. NO CC.	Fredric Joseph Ammerman
6/12/2007	Motion To Compel, filed by s/ James A. Naddeo, Esquire. 1CC Atty. Naddeo	Fredric Joseph Ammerman
6/15/2007	Rule, this 14th day of June, 2007, upoon consideration of Motion to Compel filed on behalf of Plaintiff, it is Ordered that a Rule be granted upon the Defendants. Rule Returnable and argument thereon to be held the 9th of July, 2007, at 10:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Naddeo.	Fredric Joseph Ammerman
6/18/2007	Certificate of Service, filed. That a copy of the Motion to Compel was servec on the 18th day of June 2007 to Trisha A. Gill Esq., filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman

Civil Other

Date		Judge
6/19/2006	XX Proof of Service of Subpoena upon University Orthopedics Center, filed by s/ Danielle M. Vugrinovich Esq. No CC.	Fredric Joseph Ammerman
7/10/2006	XX Defendants' Response to Plaintiff's Motion in Limine, filed by s/ Trisha A. Zaken Esq. NO CC.	Fredric Joseph Ammerman
7/19/2006	XX Certificate of Service, copy of Order was served upon Trisha A. Zaken, Esquire, on the 19th day of July, 2006 by first class mail. By The Court, /s/ James A. Naddeo, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	XX Order, NOW, this 18th day of July, 2006, Ordered that argument upon Plaintiff's Motion in Limine is scheduled for the 5th day of September, 2006, at 9:00 a.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge	Fredric Joseph Ammerman
9/12/2006	XX Order, NOW, this 5th day of Sept., 2006, Plaintiff's Motion in Limine is dismissed, without prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Naddeo, D. Vugrinovich, T. Zaken	Fredric Joseph Ammerman
10/4/2006	XX Notice of Service, filed. The Undersigned herein represents that Defendants' Supplemental Answers to Plaintiff's Interrogatories were sent to James Naddeo Esq., on October 2, 2006, filed by s/ Trisha A. Zaken Esq. No CC.	Fredric Joseph Ammerman
10/25/2006	XX Plaintiff's Second Motion in Limine, filed by Atty. Naddeo, 1 Cert. to Atty.	Fredric Joseph Ammerman
10/30/2006	XX Order, NOW, this 26th day of Oct., 2006, Ordered that argument upon Plaintiff's Second Motion in Limine is scheduled for the 9th day of Nov., 2006, at 3:00 p.m. in Courtroom No. 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC to Atty. Naddeo	Fredric Joseph Ammerman
11/1/2006	XX Certificate of Service, filed. That a copy of the Order and Plaintiff's Second Motion in Limine were served on Trisha A. Zaken Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
11/15/2006	XX Order, NOW, this 9th day of Nov., 2006, Plaintiff's Second Motion in Limine is granted to the extent that the Def., Robert W. Bish, is excluded from providing testimony regarding the circumstances of the automobile accident which occurred on June 27, 2003. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Naddeo & Vugrinovich	Fredric Joseph Ammerman
3/9/2007	XX Certificate of Service, filed. That a copy of the Plaintiff's Mediation Statement was served on the 9th day of March 2007 to Trisha A. Zaken Esq. and John Noble Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
3/23/2007	XX Suggestion of Death, The death of Robert W. Bish, a party to the above-referenced action, in Nov. 2006, during the pendency of this action is noted upon the record. Filed by s/ Trisha A. Zaken, Esquire. No CC	Fredric Joseph Ammerman
4/24/2007	XX Certificate of Service, filed. That a copy of the Plaintiff's Answers to Second Set of Supplemental Interrogatories and Request for Production of Documents was served on the 24th day of April 2007 to Trisha A. Zaken Esq., filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
5/8/2007	XX Certificate of Service, filed. That a copy of the Interrogatories Addressed to Defendant (Set Two) was served on Trisha A. Zaken Esq on the 8th day of May 2007 filed by s/ James A. Naddeo Esq. NO CC.	Fredric Joseph Ammerman
5/29/2007	XX Notice of Service, filed. That Answers and Objections to Plaintiff's Expert Interrogatories were sent to James Naddeo Esq. on May 25, 2007, filed by s/ Trisha A. Gill Esq. NO CC.	Fredric Joseph Ammerman
6/12/2007	XX Motion To Compel, filed by s/ James A. Naddeo, Esquire. 1CC Atty. Naddeo	Fredric Joseph Ammerman

Civil Other

Date		Judge
6/25/2007	Defendants' Response to Plaintiff's Motion to Compel, filed by s/ Trisha A. Gill, Esquire. No CC	Fredric Joseph Ammerman
7/16/2007	Order, this 9th day of July, 2007, Motion to Compel is Granted and the Defendant's Objections to the Plaintiff's Expert Interrogatories are Dismissed. The defense is directed to provide full and complete answers to the set of interrogatories within no more than 20 Days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Naddeo, D. Vugrinovich, T. Zaken	Fredric Joseph Ammerman
8/10/2007	Certificate of Service, filed. That a copy of the Notice of Taking Deposition was served on Trisha A. Gill Esq., Gregory M. Bailey DO., ASAP Court Reporting on the 10th day of August 2007, filed by s/ James A. Naddeo Esq 3CC Atty.	Fredric Joseph Ammerman
	Certificate of Service, filed. That a copy of the Notice of Taking Deposition was served on Trisha A. Gill Esq., Thomas J. Ellis DO., and ASAP Court Reporting, on the 10th day of August 2007 filed by s/ James A. Naddeo Esq 3CC Atty Naddeo.	Fredric Joseph Ammerman
9/7/2007	Certificate of Service, filed. That a true and correct copy of the Interrogatories Addressed to Defendants (Set Three) was served on Trisha A. Gill Esq., on the 7th day of September 2007, filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman
9/27/2007	Certificate of Service, filed. That a true and correct copy of the Amended Notice of Taking Deposition was served on Trisha A. Gill Esq., Gregory M. Bailey DO and ASAP Court Reporting on the 27th day of September 2007, filed by s/ James A. Naddeo Esq. 4CC Atty Naddeo.	Fredric Joseph Ammerman
9/28/2007	Certificate of Service, filed. That a true and correct copy of the Amended Notice of Taking Deposition was served on Trisha A. Gill Esq., Thomas J. Ellis DO., and ASAP Court Reporting on the 27th day of September 2007, filed by s/ James A. Naddeo Esq. 4CC Atty Naddeo.	Fredric Joseph Ammerman
11/14/2007	Motion To Compel, filed by s/ James A. Naddeo, Esquire. 1CC Atty. Naddeo	Fredric Joseph Ammerman
11/19/2007	Rule, this 19th day of Nov., 2007, upon consideration of Motion to Compel filed on behalf of Plaintiff, Rule is granted upon Defendants. Rule Returnable and argument to be held the 19th day of Dec., 2007 at 11:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Naddeo	Fredric Joseph Ammerman
12/17/2007	Defendants' Response to Plaintiff's Motion to Compel, filed by s/ Adam P. Knor, Esquire. no cc	Fredric Joseph Ammerman
1/10/2008	Order, this 9th day of Jan., 2008, Motion to Compel is dismissed. by The court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Naddeo, Vugrinovich & Gill	Fredric Joseph Ammerman
3/3/2008	Notice of Service, a Third Set of Supplemental Interrogatories and Request for Production of Documents were sent to James Naddeo, Esquire, on Feb. 29, 2008. Filed by s/ Trisha A. Gill, Esquire. No CC	Fredric Joseph Ammerman
3/25/2008	Certificate of Service, filed. That a true and correct copy of the Answers to Third Set of Supplemental Interrogatories and Request for Production of Documents was served on the 25th day of March 2008 by first class mail to Trisha A. Gill Esq., filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman
4/17/2008	Certificate of Readiness for Jury Trial, filed by s/ Trisha A. Gill, Esquire. No CC	Fredric Joseph Ammerman

Civil Other

Date		Judge
6/15/2007	Rule, this 14th day of June, 2007, upon consideration of Motion to Compel filed on behalf of Plaintiff, it is Ordered that a Rule be granted upon the Defendants. Rule Returnable and argument thereon to be held the 9th of July, 2007, at 10:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Naddeo.	Fredric Joseph Ammerman
6/18/2007	Certificate of Service, filed. That a copy of the Motion to Compel was served on the 18th day of June 2007 to Trisha A. Gill Esq., filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman
6/25/2007	Defendants' Response to Plaintiff's Motion to Compel, filed by s/ Trisha A. Gill, Esquire. No CC	Fredric Joseph Ammerman
7/16/2007	Order, this 9th day of July, 2007, Motion to Compel is Granted and the Defendant's Objections to the Plaintiff's Expert Interrogatories are Dismissed. The defense is directed to provide full and complete answers to the set of interrogatories within no more than 20 Days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Naddeo, D. Vugrinovich, T. Zaken	Fredric Joseph Ammerman
8/10/2007	Certificate of Service, filed. That a copy of the Notice of Taking Deposition was served on Trisha A. Gill Esq., Gregory M. Bailey DO., ASAP Court Reporting on the 10th day of August 2007, filed by s/ James A. Naddeo Esq. 3CC Atty.	Fredric Joseph Ammerman
	Certificate of Service, filed. That a copy of the Notice of Taking Deposition was served on Trisha A. Gill Esq., Thomas J. Ellis DO., and ASAP Court Reporting, on the 10th day of August 2007 filed by s/ James A. Naddeo Esq. 3CC Atty Naddeo.	Fredric Joseph Ammerman
9/7/2007	Certificate of Service, filed. That a true and correct copy of the Interrogatories Addressed to Defendants (Set Three) was served on Trisha A. Gill Esq., on the 7th day of September 2007, filed by s/ James A. Naddeo Esq. No CC	Fredric Joseph Ammerman
9/27/2007	Certificate of Service, filed. That a true and correct copy of the Amended Notice of Taking Deposition was served on Trisha A. Gill Esq., Gregory M. Bailey DO and ASAP Court Reporting on the 27th day of September 2007, filed by s/ James A. Naddeo Esq. 4CC Atty Naddeo.	Fredric Joseph Ammerman
9/28/2007	Certificate of Service, filed. That a true and correct copy of the Amended Notice of Taking Deposition was served on Trisha A. Gill Esq., Thomas J. Ellis DO., and ASAP Court Reporting on the 27th day of September 2007, filed by s/ James A. Naddeo Esq. 4CC Atty Naddeo.	Fredric Joseph Ammerman
11/14/2007	Motion To Compel, filed by s/ James A. Naddeo, Esquire. 1CC Atty. Naddeo	Fredric Joseph Ammerman
11/19/2007	Rule, this 19th day of Nov., 2007, upon consideration of Motion to Compel filed on behalf of Plaintiff, Rule is granted upon Defendants. Rule Returnable and argument to be held the 19th day of Dec., 2007 at 11:00 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Naddeo	Fredric Joseph Ammerman
12/17/2007	Defendants' Response to Plaintiff's Motion to Compel, filed by s/ Adam P. Knor, Esquire. no cc	Fredric Joseph Ammerman
1/10/2008	Order, this 9th day of Jan., 2008, Motion to Compel is dismissed. by The court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Attys: Naddeo, Vugrinovich & Gill	Fredric Joseph Ammerman

Civil Other

Date	Judge
4/29/2008	Order, this 29th day of April, 2008, it is Ordered that a Pre-Trial Conference shall be held on the 19th day of May, 2008, in Chambers at 9:00 a.m. Jury Selection is scheduled for July 24, 2008 in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Naddeo, Vugrinovich/Gill Fredric Joseph Ammerman
5/7/2008	Defendants' Motion For Continuance of Pretrial Conference, filed by s/ Trish A. Gill, Esquire. no CC Fredric Joseph Ammerman
5/12/2008	Order, this 8th day of May, 2008, it is Ordered that Defendants' Motion for Continuance of Pretrial Conference is Granted and the Pretrial Conference is continued to July 17, 2008, at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Gill Fredric Joseph Ammerman
6/10/2008	Certificate of Service, copy of the Notice of Taking Deposition was served upon Trisha A. Gill, Esquire; Thomas J. Ellis, DO; and Maryann Cornelius, Court Reporter, by First-Class Mail on the 10th day of June, 2008. Filed by s/ James A. Naddeo, Esquire. 3CC to Atty. Fredric Joseph Ammerman
7/16/2008	Plaintiff's Third Motion in Limine, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo. Fredric Joseph Ammerman
7/18/2008	Order, this 17th day of July, 2008, following pre-trial conference, it is Ordered that: Jury Selection will be held on July 24, 2008 at 1:00 p.m. in Courtroom 1. Jury Trial is scheduled for Oct. 27, 28, and 29, 2008 at 9:00 a.m. each morning in Courtroom 1. (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Naddeo, D. Vugrinovich, Gill Fredric Joseph Ammerman
8/7/2008	Order, this 7th day of August, 2008, upon consideration of the Plaintiff's Thir Motion in Limine, it is Ordered that this case will be heard before the court on the 3rd day of Sept., 2008, at 10:15 a.m. Courtroom 1. 1/2 hour has been allotted for this hearing. By The Court, /s/ Fredric J. Ammerman, Pres Judge. 2CC Atty. Naddeo Fredric Joseph Ammerman
8/29/2008	Certificate of Service, filed. That a certified copy of the Order of Court dated August 7, 2008 scheduling hearing of Plaintiff's Third Motion in Limine was served on the 8th day of August 2008 by first class mail to Trisha A. Gill Esq., filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo. Fredric Joseph Ammerman
	Plaintiff's Fourth Motion In Limine, filed by s/ James A. Naddeo, Esquire. 2CC Atty. Naddeo Fredric Joseph Ammerman
	Order, this 29th day of august, 2008, upon consideration of the Plaintiff's Fourth Motion in Limine, it is Ordered that this case will be heard before the Court on the 3rd day of Sept., 2008, at 10:15 a.m. courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Naddeo Fredric Joseph Ammerman
9/4/2008	Order, this 3rd day of Sept., 2008, following argument on the Plaintiff's Third Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. judge. 2 CC Attys: Naddeo, Vagrinovich/Gill Fredric Joseph Ammerman
9/12/2008	Defendants' Objections to Deposition Testimony of Thomas J. Ellis, D.O., filed by s/ Trisha A. Gill, Esquire. no CC Fredric Joseph Ammerman
	Motion In Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries, filed by s/ Trisha A. Gill, Esquire. no CC Fredric Joseph Ammerman
	Certificate of Service, a copy of Brief in Support of Plaintiff's Fourth Motion in Limine was served on Trisha A. Gill, Esquire, by First-Class Mail on the 12th day of Sept., 2008. filed by s/ James A. Naddeo, Esquire. No CC Fredric Joseph Ammerman

Date: 8/27/2008

Clearfield County Court of Common Pleas

User: LMILLER

Time: 10:11 AM

ROA Report

Page 5 of 5

Case: 2005-00357-CD

Current Judge: Fredric Joseph Ammerman

Harold J. Roos Jr. vs. Robert W. Bish, Tri Mount, Inc.

Civil Other

Date		Judge
3/3/2008	XX Notice of Service, a Third Set of Supplemental Interrogatories and Request for Production of Documents were sent to James Naddeo, Esquire, on Feb. 29, 2008. Filed by s/ Trisha A. Gill, Esquire. No CC	Fredric Joseph Ammerman
3/25/2008	XX Certificate of Service, filed. That a true and correct copy of the Answers to Third Set of Supplemental Interrogatories and Request for Production of Documents was served on the 25th day of March 2008 by first class mail to Trisha A. Gill Esq., filed by s/ James A. Naddeo Esq. No CC.	Fredric Joseph Ammerman
4/17/2008	XX Certificate of Readiness for Jury Trial, filed by s/ Trisha A. Gill, Esquire. No CC	Fredric Joseph Ammerman
4/29/2008	XX Order, this 29th day of April, 2008, it is Ordered that a Pre-Trial Conference shall be held on the 19th day of May, 2008, in Chambers at 9:00 a.m. Jury Selection is scheduled for July 24, 2008 in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Naddeo, Vugrinovich/Gill	Fredric Joseph Ammerman
5/7/2008	XX Defendants' Motion For Continuance of Pretrial Conference, filed by s/ Trisha A. Gill, Esquire. no CC	Fredric Joseph Ammerman
5/12/2008	XX Order, this 8th day of May, 2008, it is Ordered that Defendants' Motion for Continuance of Pretrial Conference is Granted and the Pretrial Conference is continued to July 17, 2008, at 9:00 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Gill	Fredric Joseph Ammerman
6/10/2008	XX Certificate of Service, copy of the Notice of Taking Deposition was served upon Trisha A. Gill, Esquire; Thomas J. Ellis, DO; and Maryann Cornelius, Court Reporter, by First-Class Mail on the 10th day of June, 2008. Filed by s/ James A. Naddeo, Esquire. 3CC to Atty.	Fredric Joseph Ammerman
7/16/2008	XX Plaintiffs Third Motion in Limine, filed by s/ James A. Naddeo Esq. 2CC Atty Naddeo.	Fredric Joseph Ammerman
7/18/2008	XX Order, this 17th day of July, 2008, following pre-trial conference, it is Ordered that: Jury Selection will be held on July 24, 2008 at 1:00 p.m. in Courtroom 1. Jury Trial is scheduled for Oct. 27, 28, and 29, 2008 at 9:00 a.m. each morning in Courtroom 1. (see original). By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys; Naddeo, D. Vugrinovich, Gill	Fredric Joseph Ammerman
8/7/2008	XX Order, this 7th day of August, 2008, upon consideration of the Plaintiff's Third Motion in Limine, it is Ordered that this case will be heard before the court on the 3rd day of Sept., 2008, at 10:15 a.m. Courtroom 1. 1/2 hour has been allotted for this hearing. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Naddeo	Fredric Joseph Ammerman

8-29-08 X Certificate of Service

8-29-08 X Plff's Fourth Motion in Limine

8-29-08 X Order, dated 8-29-08

JURY SELECTION

DATE: JUNE 26, 2008

JUDGE: AMMERMAN

CASE #: CP-17-CR-908-2007

TRIAL DATE: July 16, 2008

COMMONWEALTH OF PA

-vs- JAMIE M. GINYARD

1.	ADAM DYSARD	CLEARFIELD	CH
2.	BETSY GUTHRIE	MINERAL SPRINGS	1
3.	CORRINE XXXXXXXX HEVERLY	FALLENTIMBER	2
4.	MARGARET LANICH	CLEARFIELD	D#1
5.	RICHARD KERSTETTER	DUBOIS	3
6.	WILLIAM XXXX BRAID	DUBOIS	D#1
7.	PORTS BYER Trudence Henschel	MAHAFFEY Bigler	4
8.	TAMMY CASSLER	PHILIPSBURG	5
9.	KATHRYN KELLIGHER	PHILIPSBURG	6
10.	JUDITH HAMM	MADERA	D#5
11.	CONSTANCE SHIPLEY	CLEARFIELD	7
12.	SHERYL DEBOER	LUTHERSBURG	D#2
13.	CHARLES SMITH	PENFIELD	CH 3
14.	PAULA WALLACE	IRVONA	8
15.	MARCIA BELIN	DUBOIS	9
16.	S.P. SINGH	clearfield	D#3
17.	LORI HANSLOVAN	MORRISDALE	CH 4
18.	ANDREW KLARK	DUBOIS	CH 5
19.	WILLIAM ELLIS	HOUTZDALE	10
20.	LAURA WILLIAMS Richard Senior	Rockton DuBois	11
21.	STEVE KROPINSKY	SMITHMILL	12
22.	DEAN RICHARDS	GRANBRIAN	13
23.	PERRY ROWLES	1500 Atty's	14
24.	JOHN WEBER	100 Atty	15
25.			16
26.			17
27.			18
28.			19
29.			20
30.			21
31.	Judge		22
32.			23
33.			24
34.			25
35.			26
36.			27

10/6/2008

10/2/2008

9/22/2008

Date

Civil Other

Harold J. Roos Jr. vs. Robert W. Bish, et al

Current Judge: Fredric Joseph Ammerman

Case: 2005-00357-CD

Page 6 of 6

Time: 10:23 AM

Date: 10/15/2008

Clearfield County Court of Common Pleas

User: L MILLER

ROA Report

Date: 10/2/2008

Clearfield County Court of Common Pleas

User: LMILLER

Time: 03:45 PM

ROA Report

Page 1 of 1

Case: 2005-00357-CD

Current Judge: Fredric Joseph Ammerman

Harold J. Roos Jr. vs. Robert W. Bish, et al

Civil Other

Date	Selected Items	Judge
9/4/2008	Order, this 3rd day of Sept., 2008, following argument on the Plaintiff's Third Motion in Limine, it is Ordered: (see original). By The Court, /s/ Fredric J. Ammerman, Pres. judge. 2 CC Attys: Naddeo, Vagrnovich/Gill	Fredric Joseph Ammerman
9/12/2008	Defendants' Objections to Deposition Testimony of Thomas J. Ellis, D.O., filed by s/ Trisha A. Gill, Esquire. no CC	Fredric Joseph Ammerman
	Motion In Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries, filed by s/ Trisha A. Gill, Esquire. no CC	Fredric Joseph Ammerman
	Certificate of Service, a copy of Brief in Support of Plaintiff's Fourth Motion in Limine was served on Trisha A. Gill, Esquire, by First-Class Mail on the 12th day of Sept., 2008. filed by s/ James A. Naddeo, Esquire. No CC	Fredric Joseph Ammerman
9/22/2008	Order, this 22nd day of Sept., 2008, argument on Defendants Objections to Deposition Testimony of Thomas J. Ellis, D.O. shall be held on the 14th day of Oct., 2008 at 1:30 p.m. Courtroom 2. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Gill	Fredric Joseph Ammerman
	Scheduling Order For Motion In Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries, this 22nd day of Sept., 2008, it is Ordered: Argument shall be held on the 14th day of Oct., 2008 at 1:30 p.m. Courtroom 2. by The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2 CC Atty. Gill	Fredric Joseph Ammerman

10-2-08 Plaintiff's Response to def's PD's to deposition testimony of Thomas J. Ellis D.O.

10-6-08 ✓ Order, dated 10-3-08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

No. 05 357- CD

Type of Pleading:

**PRAECIPE FOR WRIT
OF SUMMONS**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

013:40:00
MAR 14 2005

William A. Shaw
Prothonotary/Clerk of Court
1 copy &
2 writs to
Shiff
Att'y rd. 85.00

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a
Corporation,
Defendants

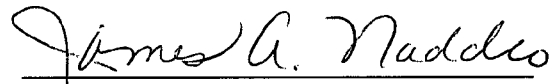
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No. 05 - - CD

PRAECIPE TO ISSUE WRIT OF SUMMONS

To the Prothonotary:

Please issue a Writ of Summons against Robert W. Bish,
RD3 Box 171, Pleasant Hill, Philipsburg, Pennsylvania 16866 and
Tri Mount, Inc., 903 North Front Street, Philipsburg,
Pennsylvania 16866.


James A. Naddeo, Esquire
Attorney for Plaintiff

Dated: 3-11-05

JAMES A. NADDEO
ATTORNEY AT LAW
207 EAST MARKET STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

MAR 14 2005

JAMES A. NADDEO
Prothonotary Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION**

COPY

SUMMONS

Harold J. Roos Jr.

Vs.

NO.: 2005-00357-CD

**Robert W. Bish
Tri Mount, Inc.**

TO: ROBERT W. BISH
TRI MOUNT, INC.

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 03/14/2005

William A. Shaw
Prothonotary

Issuing Attorney:

James A. Naddeo
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISCH and
TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

PRAECIPE FOR APPEARANCE
(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

LAURA L. WALLACE, ESQUIRE
P.A. I.D. NO. 93316

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

FILED 

APR 13 2005


William A. Shaw

Prothonotary/Clerk of Courts

no c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISCH and
TRIMOUNT, INC.,

Defendants.

PRAECIPE FOR APPEARANCE

TO: THE PROTHONOTARY

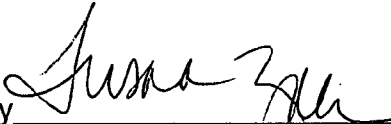
Kindly enter the Appearance of the undersigned, Trisha A. Zaken, Esquire, and
Laura L. Wallace, Esquire, of the law firm of Walsh, Collis & Blackmer, L.L.C., on behalf of
the Defendants, Robert W. Bisch, in the above case.

JURY TRIAL DEMANDED

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By



Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Praecipe for Appearance has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 8 day of April, 2005:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By Trisha A. Zaken
Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISCH and
TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**PRAECIPE FOR RULE TO FILE
COMPLAINT**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

LAURA L. WALLACE, ESQUIRE
P.A. I.D. NO. 93316

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED
APR 13 2005
m/3:20/a
William A. Shaw
Prothonotary/Clerk of Courts
No C/C

Rule to Atty for Complaint

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

(Jury Trial Demanded)

vs.

ROBERT W. BISCH and
TRIMOUNT, INC.,

Defendants.

PRAECIPE FOR RULE TO FILE COMPLAINT

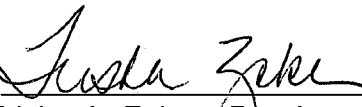
TO: THE PROTHONOTARY

Kindly rule the Plaintiff, Harold J. Roos, Jr., to file a Complaint in Civil Action within
twenty (20) days.

JURY TRIAL DEMANDED

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

BY 
Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Praecipe for Rule to File Complaint has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 11 day of April, 2005:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By Trisha A. Zaken
Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

Harold J. Roos Jr.

Vs.
Robert W. Bish
Tri Mount, Inc.

Case No. #2005-00357-CD

RULE TO FILE COMPLAINT

TO: Harold J. Roos, Jr.

YOU ARE HEREBY RULED to file a Complaint in the above-captioned matter within twenty (20) days from service hereof, or a judgment of non pros may be entered against you.

William A. Shaw, Prothonotary

Dated: April 13, 2005

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100303
NO: 05-357-CD
SERVICE # 1 OF 2
SUMMONS

PLAINTIFF: HAROLD J. ROOS JR.

vs.

DEFENDANT: ROBERT W. BISH and TRI MOUNT, INC.

SHERIFF RETURN

NOW, April 05, 2005 AT 8:44 AM SERVED THE WITHIN SUMMONS ON ROBERT W. BISH DEFENDANT AT RD#3 BOX 171, PLEASANT HILL, PHILIPSBURG, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO NANCY BISH, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / HUNTER

FILED
012:5701
APR 22 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100303
NO: 05-357-CD
SERVICE # 2 OF 2
SUMMONS

PLAINTIFF: HAROLD J. ROOS JR.

vs.

DEFENDANT: ROBERT W. BISH and TRI MOUNT, INC.

SHERIFF RETURN

NOW, April 13, 2005 AT 9:40 AM SERVED THE WITHIN SUMMONS ON TRI MOUNT, INC. DEFENDANT AT 903 NORTH FRONT ST., PHILIPSBURG, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DALE MULLEN, ASST. MGR. A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HAWKINS /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100303
NO: 05-357-CD
SERVICES 2
SUMMONS

PLAINTIFF: HAROLD J. ROOS JR.

vs.

DEFENDANT: ROBERT W. BISH and TRI MOUNT, INC.

SHERIFF RETURN

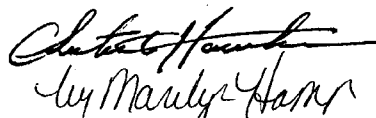
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	NADDEO	17051	20.00
SHERIFF HAWKINS	NADDEO	17051	50.29

Sworn to Before Me This

_____ Day of _____ 2005

So Answers,



Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISCH and TRIMOUNT,
INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**PROOF OF SERVICE OF RULE TO FILE
COMPLAINT**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

LAURA L. WALLACE, ESQUIRE
P.A. I.D. NO. 93316

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

ck MAY 02 2005
M/1:00/um
William A. Shaw
Prothonotary
no c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISCH and
TRIMOUNT, INC.,

Defendants.

PROOF OF SERVICE OF RULE TO FILE COMPLAINT

AND NOW, come the Defendants, Robert W. Bisch and Trimount, Inc., by and through their Attorneys, Walsh, Collis & Blackmer, LLC, and Paul J. Walsh III, Esquire, and file the following Proof of Service of Rule to File Complaint and aver as follows:

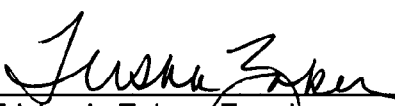
1. A Rule to File a Complaint in connection with the above-captioned matter was served on counsel for the Plaintiff on April 20, 2005.

2. Attached hereto and marked as Exhibit "A" is a copy of the Return of Service.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By


Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

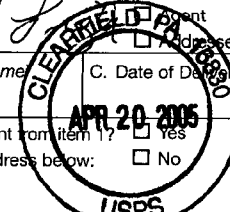
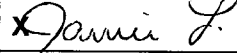
James Naddo
207 E. Market Street
P.O. Box 552
Clearfield PA 16830

2. Article Number

(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature



B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7004 0750 0002 7255 9339

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Proof of Service** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 28 day of April 2005:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By Trisha A. Zaken
Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

FILED

MAY 02 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

No. 05 - **357** - CD

Type of Pleading:

COMPLAINT

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

0110:59301
MAY 09 2005

64
icc
Atty Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830

(814) 765-2641, ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

COMPLAINT

NOW COMES the Plaintiff, Harold J. Roos, Jr., and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff, Harold J. Roos, Jr., is a sui juris, adult individual who resides at 2345 Rolling Stone Road, Morrisdale, PA 16858.

2. That the Defendant, Robert W. Bish, is a sui juris, adult individual who resides at R. D. 3, Box 171, Pleasant Hill, Philipsburg, PA 16866.

3. That the Defendant, Tri Mount, Inc., is a corporation having its principal place of business located at 903 North Front Street, Philipsburg, PA 16866.

COUNT I

Harold J. Roos, Jr. v. Robert W. Bish

4. That on or about June 27, 2003 at approximately 1:45 p.m., E.D.S.T., the Plaintiff, Harold J. Roos, Jr., was the

owner and operator of a 1997 GMC Sierra bearing Pennsylvania Registration No. YDC7151.

5. That on the said date and at or about the said time, the Defendant, Robert W. Bish, was the operator of a 2001 Chevrolet S10 bearing Pennsylvania Registration No. Y6V1455 which vehicle was owned by the Defendant, Tri Mount, Inc.

6. That State Route 53 is a two-lane, macadam highway which proceeds in a generally north-south direction through Morris Township, Clearfield County, Pennsylvania.

7. That on the aforesaid date and at or about the said time, it was daylight and there were no averse weather conditions.

8. That on the aforesaid date at or about the said time, the Plaintiff, Harold J. Roos, Jr., was proceeding north on State Route 53 in his proper lane of travel.

9. That on the aforesaid date and at or about the said time, the vehicle operated by the Defendant, Robert W. Bish, was proceeding south on State Route 53.

10. That on the aforesaid date and at or about the said time, the Defendant, Robert W. Bish, failed to negotiate a right curve in the roadway and crossed over the centerline into the northbound lane of travel where he collided with the vehicle operated by the Plaintiff.

11. That as a result of the collision described in Paragraph 10 hereof which is incorporated herein by reference, the Plaintiff, Harold J. Roos, Jr., was thrown generally forward and backward within the vehicle which he was operating causing the numerous and serious injuries hereinafter set forth.

12. That the Defendant, Robert W. Bish, was guilty of the following negligence, recklessness and carelessness which was the proximate cause of the accident and the injuries to the Plaintiff, Harold J. Roos, Jr., as follows:

A. That the Defendant failed to have his vehicle under proper control;

B. That the Defendant failed to maintain a proper lookout;

C. That the Defendant violated the Motor Vehicle Code of 1976, June 17, P.L. 162, Section 3714, 75 Pa. C.S.A. Section 3174 and supplements thereto in that he operated his vehicle upon State Route 53 with careless disregard for the safety of the Plaintiff, Harold J. Roos, Jr.

E. That the Defendant violated the Motor Vehicle Code of 1976, June 17, P.L. 162, Section 3736, 75 Pa. C.S.A. Section 3736, and supplements thereto, in that he operated his vehicle upon State route 53 in willful or wanton disregard for the safety of the

person or property of the Plaintiff, Harold J. Roos, Jr.

F. That the Defendant violated the Motor Vehicle Code of 1976, June 17, P.L. 162, Section 3309, 75 Pa.C.S.A. Section 3309, and supplements thereto, in that he failed to operate his vehicle entirely within a single lane of a roadway laned for traffic and moved his vehicle from his lane of travel without first ascertaining that the movement could be made with safety.

G. That the Defendant, Robert W. Bish, was negligent, careless and reckless in that he failed to use due care under all circumstances of the case.

13. That as a result of the collision described in Paragraph 10 hereof, the Plaintiff, Harold J. Roos, Jr., suffered the following injuries which may and probably will be permanent:

- A. Abrasions of chest;
- B. Large anterior contusion of bilateral knees;
- C. Exacerbation pre-existing knee replacements;
- D. Lumbar Sprain;

E. Exacerbation pre-existing degenerative changes lumbar spine;

F. Bulging discs lumbar spine;

G. Exacerbation pre-existing degenerative changes cervical spine;

H. Bulging discs cervical spine.

14. That as a result of the injuries referred to in Paragraph 13 hereof, the Plaintiff, Harold J. Roos, Jr., has been unable to engage in his regular household duties since the time of the accident up to and including the filing of this complaint and will be unable to do so for an indefinite period of time in the future.

15. That as a result of the injuries referred to in Paragraph 13 hereof, the Plaintiff, Harold J. Roos, Jr., may incur medical expenses for the treatment of his injuries in excess of his available first party medical benefits.

15. That as a result of the injuries referred to in Paragraph 13 hereof, the Plaintiff, Harold J. Roos, Jr., has lost wages which may and probably will exceed the amounts to which he is entitled under first party reimbursement.

16. That the Plaintiff, Harold J. Roos, Jr., claims a reasonable amount for the following:

A. Pain and suffering: past, present
and future;

B. Privation and inconvenience: past,
present and future;

C. Future medical expenses;

D. Lost wages;

E. Impairment of earning power;

F. All other damages allowable by law.

WHEREFORE, the Plaintiff, Harold J. Roos, Jr., claims damages from the Defendant, Robert W. Bish, in excess of Twenty Five Thousand (\$25,000.00) Dollars. Jury Trial Demanded.

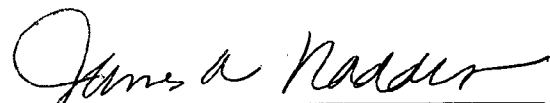
COUNT II

Harold J. Roos, Jr. v. Tri Mount, Inc.

17. That the Plaintiff incorporates Paragraphs 4 through 16 of the First Count of this Complaint by reference and makes them a part hereof.

18. That at all times referred to herein, the Defendant, Robert W. Bish, was acting within the course of his employment and under the supervision and direction of the Defendant, Tri Mount, Inc.

WHEREFORE, the Plaintiff, Harold J. Roos, Jr., claims damages from the Defendant, Tri Mount, Inc., in excess of Twenty Five Thousand (\$25,000.00) Dollars. Jury Trial Demanded.


James A. Naddeo
Attorney for Plaintiff

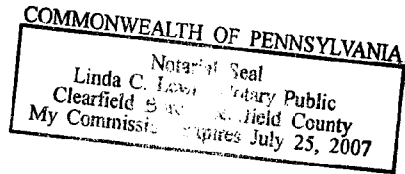
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared HAROLD J. ROOS, JR., who, being duly sworn according to law, deposes and states that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

Harold J. Roos, Jr

SWORN and SUBSCRIBED before me this 6th day of May, 2005.

Anda C. Lewis



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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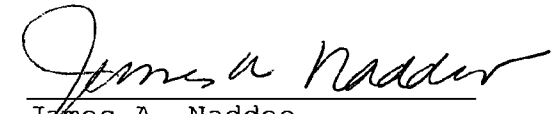
No. 05 - - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Complaint filed in the above-captioned case was
served on the following and in the following manner on the 9th day
of May, 2005:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, LLC
The Gulf Tower, Suite 2300
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
207 EAST MARKET STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

MAY 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

No. 05 - 357 - CD

Type of Pleading:

Certificate of Service

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 102
of 10:52 AM Atty Naddeo
MAY 20 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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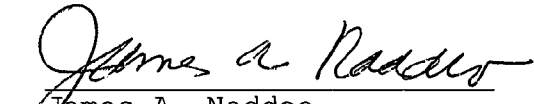
No. 05 - 357 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Answers to Interrogatories and Answer to Request
for Production of Documents was served on the following and in the
following manner on the 20th day of May, 2005:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, LLC
The Gulf Tower, Suite 2300
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
207 EAST MARKET STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

MAY 20 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

ANSWER AND NEW MATTER

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

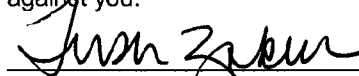
LAURA L. WALLACE, ESQUIRE
P.A. I.D. NO. 93316

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

TO: PLAINTIFF

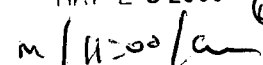

You are hereby notified to
file a written response to
the enclosed Answer and New
Matter within twenty (20)
days from service hereof
or a judgment may be entered
against you.



WALSH COLLIS & BLACKMER, L.L.C.

#245

FILED

MAY 26 2005

William A. Shaw
Prothonotary


IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,
vs.

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ANSWER AND NEW MATTER

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, LLC, and Trisha A. Zaken, Esquire, and file the following Answer and New Matter and in support thereof aver as follows:

I. ANSWER

1. Paragraph 1 of Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is denied pursuant to Pa.R.C.P. 1029(c) and 1029(e). After reasonable investigation, these Defendants have insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial.

2. Paragraphs 2 and 3 of Plaintiff's Complaint are admitted.

COUNT I – HAROLD J. ROOS, JR.

V.

ROBERT W. BISH

3. Paragraph 4 of Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is denied pursuant to Pa.R.C.P. 1029(c) and 1029(e). After reasonable investigation,

these Defendants have insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial.

4. Paragraph 5 of Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averments are admitted.

5. Paragraph 6 of Plaintiff's Complaint is admitted.

6. Paragraph 7 of Plaintiff's Complaint is denied pursuant to Pa.R.C.P. 1029(c) and 1029(e). After reasonable investigation, these Defendants have insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial.

7. Paragraph 8 of Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is denied pursuant to Pa.R.C.P. 1029(c) and 1029(e). After reasonable investigation, these Defendants have insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial. By way of further response, these Defendants herein refer to and incorporate their previously set forth responses, hereinafter set forth responses, and New Matter.

8. Paragraph 9 of Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is admitted.

9. Paragraphs 10 through 16 of Plaintiff's Complaint state legal conclusions to which no responses are required. To the extent that responses are deemed necessary,

said averments are denied pursuant to Pa.R.C.P. 1029(c) and 1029(e). After reasonable investigation, these Defendants have insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial. By way of further response, these Defendants herein refer to and incorporate their previously set forth responses, hereinafter set forth responses and New Matter.

WHEREFORE, the Defendants, Robert W. Bish and Trimount, Inc., deny that they are liable to the Plaintiff in the sum demanded or for any sum whatsoever and therefore, request this Honorable Court to enter judgment in their favor and against the Plaintiff with costs and prejudice imposed.

COUNT II – HAROLD J. ROOS, JR.

V.

TRIMOUNT, INC.

10. Paragraph 17 of Plaintiff's Complaint is an incorporation paragraph and requires no response. To the extent that a response is deemed necessary, these Defendants herein refer to and incorporate their previously set forth responses, hereinafter set forth responses and New Matter.

11. Paragraph 18 of Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is admitted.

WHEREFORE, the Defendants, Robert W. Bish and Trimount, Inc., deny that they are liable to the Plaintiff in the sum demanded or for any sum whatsoever and therefore, request this Honorable Court to enter judgment in their favor and against the Plaintiff with costs and prejudice imposed.

II. NEW MATTER

12. Paragraphs 1 through 11 are herein referred to and incorporated as if set forth fully at length.

13. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, the Plaintiff's Complaint is barred in whole or in part by the applicable provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law.

14. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants plead the contributory, causal negligence of the Plaintiff and the provisions of the Pennsylvania Comparative Negligence Act as a complete or partial bar to any recovery by the Plaintiff in this action.

15. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants plead the accident involved herein was the direct, sole, and proximate result of the Plaintiff's own negligence generally and in the following particulars:

- a. In failing to maintain a proper and adequate look-out for the roadway and traffic conditions;
- b. In bringing his vehicle to a sudden, abrupt, and unexpected halt without regard to traffic and roadway conditions;
- c. In operating his vehicle at an excessive rate of speed;
- d. In violating the Motor Vehicle Code and local ordinances; and,
- e. In otherwise being negligent under the circumstances.

16. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants aver the sudden emergency doctrine as an affirmative defense.

17. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants aver the assured clear distance rule as an affirmative defense.

18. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, any injuries and/or damages alleged by the Plaintiff were the result of superseding, intervening, and/or independent causes over which these Defendants had no control and in no way participated.

19. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants reserve the right to assert any and all other affirmative defenses which discovery may reveal appropriate and/or proper.

20. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants aver the injuries and damages alleged by the Plaintiff were the result of a pre-existing condition unrelated to this accident and/or occurrence.

21. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants aver that Plaintiff failed to mitigate his damages by ignoring the advice of medical providers.

22. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants aver that any medical expenses not precluded per 75 Pa.C.S.A. § 1722 must be reduced in accordance with Moorhead v. Crozer Chester Medical Center.

23. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants raise all affirmative defenses set forth in

Pa.R.C.P. 1030 to the Plaintiff's claims, including the legal doctrines of payment, accord and satisfaction, release, waiver, estoppel, and the statute of limitations.

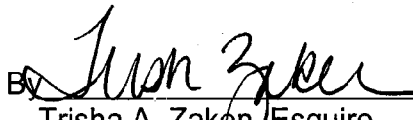
24. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants aver that the Plaintiff is bound by the limited tort option and attendant rules governing the same in the Pennsylvania Motor Vehicle Financial Responsibility Law as set forth 75 Pa.C.S.A. § 1701 et. seq.

25. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, these Defendants aver that the Plaintiff did not sustain a serious injury as defined in 75 Pa.C.S.A. § 1702.

WHEREFORE, the Defendants, Robert W. Bish and Trimount, Inc., deny that they are liable to the Plaintiff in the sum demanded or for any sum whatsoever and therefore, request this Honorable Court to enter judgment in their favor and against the Plaintiff with costs and prejudice imposed.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

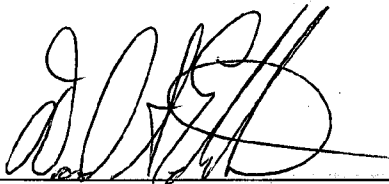

Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

VERIFICATION

I, David S Edmiston, verify that I am the PRESIDENT

of Trimount, Inc., and I am authorized to execute this verification on behalf the Defendant, Trimount, Inc. and the statements made in the foregoing **Answer and New Matter** are true and correct to the best of my knowledge, information and belief. To the extent that the content of the **Answer and New Matter** is permitted by Pennsylvania Rules of Civil Procedure, I have relied upon counsel in verifying the same.

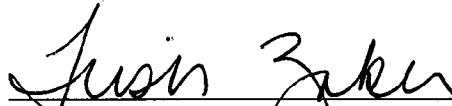
5-19-05
(Date)



#245

VERIFIED STATEMENT

I, Trisha A. Zaken, Esquire, being the attorney for the Defendants, Robert W. Bish and Trimont, Inc., in the within action, am duly authorized to make this Verified Statement on the Defendants' behalf. I hereby verify that the statements set forth in the foregoing **Answer and New Matter** are true and correct to the best of my information and belief based upon knowledge obtained from the Defendant.



Trisha A. Zaken, Esquire
Counsel for Defendant

DATED: 5.23.05

#275

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Answer and New Matter** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 24 day of May 2005.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By Trisha A. Zaken
Trisha A. Zaken, Esquire
Laura L. Wallace, Esquire
Counsel for Defendants

FILED

MAY 26 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

ANSWER TO NEW MATTER

NOW COMES the Plaintiff, Harold Roos, Jr., and by his attorney, James A. Naddeo, Esquire, sets forth the following Answer to New Matter:

12. No answer required.

13. States a conclusion of law to which no answer is required.

14. States a conclusion of law to which no answer is required. To the extent that an answer may be required, it is denied that the Plaintiff was in any manner contributory negligent.

15. Denied and on the contrary it is alleged that Plaintiff committed no negligence approximately causing the accident. In further answer thereto Plaintiff alleges as follows:

A. It is denied that Plaintiff failed to maintain a proper lookout but to the contrary it is alleged that the Plaintiff was lawfully occupying his own lane of travel when Defendant suddenly entered into Plaintiff's lane of travel where his vehicle impacted with the vehicle operated by Plaintiff.

B. Denied and on the contrary it is alleged that the only point at which Plaintiff's vehicle came to an abrupt halt was when said vehicle was struck in its proper lane of travel by the vehicle operated by the Defendant.

C. Denied and on the contrary it is alleged that Plaintiff at all times operated his vehicle at or below the posted speed limit.

D. Said allegation constitutes an impermissible allegation of general negligence to which Plaintiff objects. To the extent that an answer may be required, it is denied that Plaintiff violated either the Motor Vehicle Code or any local ordinance.

E. Said allegation constitutes an impermissible allegation of general negligence to which Plaintiff objects. To the extent that an answer may be required, it is denied that Plaintiff was in any manner negligent under the circumstances.

16. States a conclusion of law to which no answer is required.

17. States a conclusion of law to which no answer is required.

18. States a conclusion of law to which no answer is required.

19. States a conclusion to which no answer is required.

20. Denied and on the contrary it is alleged that damages claimed by Plaintiff are in part an exacerbation of the pre-existing condition.

21. States a conclusion to which no answer is required.

22. States a conclusion of law to which no answer is required.

23. States a conclusion of law to which no answer is required.

24. Denied and on the contrary it is alleged that Plaintiff was not bound by the limited tort option at the time of the accident.

25. States a conclusion of law to which no answer is required.

WHEREFORE, Plaintiff claims damages as set forth in

his Complaint.


James A. Naddeo
Attorney for Plaintiff

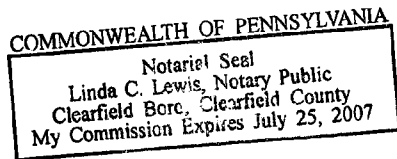
COUNTY OF CLEARFIELD)

Before me, the undersigned officer, personally appeared HAROLD ROOS, JR., being duly sworn according to law, deposes and states that the facts set forth in the foregoing Answer to New Matter are true and correct to the best of his knowledge, information and belief.

Harold Roos, Jr.

SWORN and SUBSCRIBED before me this 1st day of June, 2005.

Inde C. Swin



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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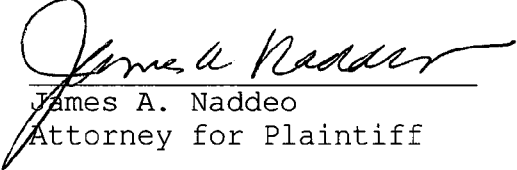
No. 05 - 357 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Plaintiff's Answer to New Matter was served on
the following and in the following manner on the 1st day of
June, 2005:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, LLC
The Gulf Tower, Suite 2300
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
207 EAST MARKET STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

Lap over margin

FILED

JUN 01 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

No. 05 - 357 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED *icc*
01:10:55 BY Amy Naddeo
DEC 27 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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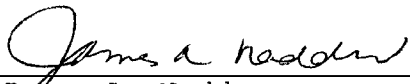
No. 05 - 357 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Plaintiff's Answers to Supplemental
Interrogatories was served on the following and in the following
manner on the 27th day of December, 2005:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, LLC
The Gulf Tower, Suite 2300
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**NOTICE OF INTENT TO SERVE
SUBPOENA**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *no cc*
m71.5361
FEB 23 2006 *sm*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

(Jury Trial Demanded)

ROBERT W. BISH and
TRIMOUNT, INC.,

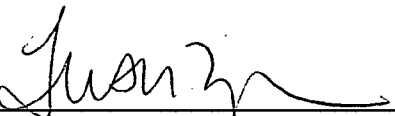
Defendants.

NOTICE OF INTENT TO SERVE SUBPOENA

Defendant, Robert W. Bish and Trimount, Inc., intend to serve a Subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the designated an objection to the subpoena. If no objection is made the subpoena may be served.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By 
Trisha A. Zaken, Esquire
Counsel for Defendants

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Harold J. Roos Jr.
Plaintiff(s)

*

Vs.

*

No. 2005-00357-CD

Robert W. Bish
Tri Mount, Inc.
Defendant(s)

*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Social Security Administration

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:
the complete file of Harold Roos, Jr. (SS # 195-40-9438) including the transcript of testimony and exhibits taken on October 20, 2004 in Dubois, Pennsylvania.

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Trisha A. Zaken, Esquire

ADDRESS: Gulf Tower, 14th Fl.
707 Grant St., Pgh, PA 15219

TELEPHONE: 412-258-2255

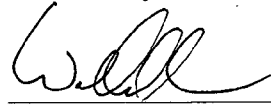
SUPREME COURT ID # 83751

ATTORNEY FOR: Defendants

BY THE COURT:

William A. Shaw

Prothonotary/Clerk, Civil Division



Deputy

DATE: Friday, February 17, 2006
Seal of the Court

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Notice of Intent to Serve Subpoena** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 21st day of February, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Zaken

Trisha A. Zaken, Esquire
Counsel for Defendants

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9/11/02 am
MAR 13 2006 LM

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
An Individual,
Plaintiff,

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants.

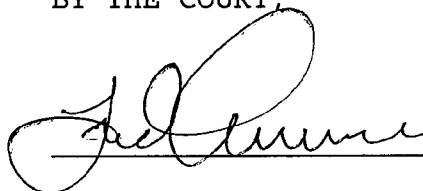
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No. 05 - 357 - CD

O R D E R

AND NOW, this 10th day of March, 2006, it is the
ORDER of this Court that a Status Conference is scheduled for
the 28th day of March, 2006, at 11:00 A.m. in Courtroom
No. 1, Clearfield County Courthouse, Clearfield,
Pennsylvania.

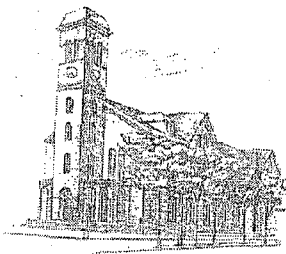
BY THE COURT,



FILED

MAR 13 2006

William A. Shaw
Prothonotary



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary


Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,


William A. Shaw
Prothonotary

DATE: 03-13-2006

X You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Scheduling Order was served on the following and
in the following manner on the 14th day of March, 2006:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, LLC
The Gulf Tower, Suite 2300
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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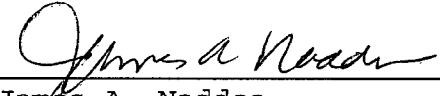
No. 05 - 357 - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Interrogatories Addressed to Defendants was
served on the following and in the following manner on the 16th
day of March, 2006:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, LLC
The Gulf Tower, Suite 2300
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

FILED

MAR 16 2006

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISCH and TRIMOUNT, INC.,

**PROOF OF SERVICE OF SUBPOENA TO
SOCIAL SECURITY ADMINISTRATION**

Defendants.

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED
m12:1361 no cc
MAR 22 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISCH and
TRIMOUNT, INC.,

Defendants.

**PROOF OF SERVICE OF SUBPOENA TO
SOCIAL SECURITY ADMINISTRATION**

AND NOW, come the Defendants, Robert W. Bisch and Trimount, Inc., by and through their Attorneys, Walsh, Collis & Blackmer, P.C., and Trisha A. Zaken, Esquire, and file the following Proof of Service of Rule to File Complaint and aver as follows:

1. A Subpoena to produce documents in connection with the above-captioned matter was served on the Social Security Administration on March 15, 2006.
2. Attached hereto and marked as Exhibit "A" is a copy of the Return of Service.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Zaken, Esquire
Counsel for Defendants

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature <input checked="" type="checkbox"/> <i>Sherrin McGowan</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Social Security Administration 480 Jeffers Street Dubois, PA 15801</p>		<p>B. Received by (Printed Name) <i>Sherrin McGowan</i> C. Date of Delivery <i>3-15</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004</p>		<p>7005 0390 0003 7157 9420</p>	
		<p>Domestic Return Receipt</p>	
		<p>102595-02-M-1540</p>	

EXHIBIT "A"

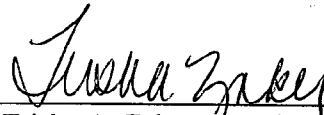
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Proof of Service of Subpoena to Social Security Administration** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 20 day of March, 2006:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Zaken, Esquire
Counsel for Defendants

FILED

MAR 22 2006

William A. Shaw
Prothonotary/Clerk of Courts

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William A. Shaw
Prothonotary/Clerk of Courts
P.O. Titmunt
903 N. Front St.
Philipsburg
PA 16866
GPO

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

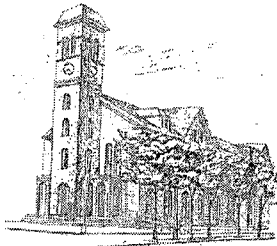
ORDER

AND NOW, this 28 day of March, 2006, being the date set for status conference in the above-captioned case, upon agreement of counsel, all discovery shall be completed within 90 days of today's date including an independent medical examination of Plaintiff by Defendant should Defendant request or require such examination.

It is the further ORDER of this Court that upon expiration of the 90 day discovery period set forth herein either party may list this case for trial.

BY THE COURT

A handwritten signature in cursive script, likely belonging to Judge Annunzio, is written over a horizontal line.



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/30/06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

**PRAECIPE TO WITHDRAW
APPEARANCE**

Defendants.

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

APR 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

no c/c

copy to S/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

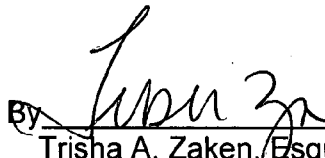
PRAECIPE TO WITHDRAW APPEARANCE

TO THE PROTHONOTARY:

Kindly withdraw the appearance of Laura L. Wallace, Esquire and enter my appearance on behalf of the Defendants in the above-captioned case.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By 
Trisha A. Zaken, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **PRAECIPE TO WITHDRAW APPEARANCE** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 3 day of April, 2006:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Zaken
Trisha A. Zaken, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

PRAECIPE TO ENTER APPEARANCE

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. No. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *NO cc*
3/11/06
APR 17 2006 *copy to CIA*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

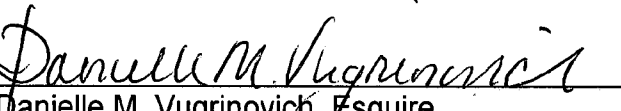
PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Kindly enter the appearance of Danielle M. Vugrinovich, Esquire on behalf of the
Defendants in the above-captioned case.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

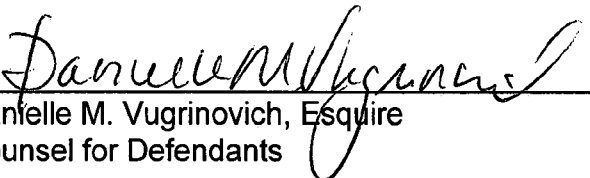
By 
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **PRAECIPE TO ENTER APPEARANCE** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 13th day of April, 2006:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By 
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**CERTIFICATE PRE-REQUISITE TO
SERVICE OF A SUBPOENA UPON 611
OPEN MRI & CT PURSUANT TO RULE
4009.22**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. No. 88326

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED ^{NO CC}
JUN 06 2008
11:12 AM
JUN 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

**CERTIFICATE PRE-REQUISITE TO SERVICE OF A SUBPOENA UPON 611 OPEN
MRI & CT PURSUANT TO RULE 4009.22**


As a pre-requisite to service of a Subpoena for documents and things pursuant to Rule 4009.22, the Defendant certifies that:

1. Plaintiff's counsel waived the twenty (20) day notice requirement on May 18, 2002 in order to expedite this matter for trial.
2. The Subpoena which has been served is identical to the Subpoena which is attached to this Certificate Pre-Requisite to Service of a Subpoena upon 611 Open MRI & CT Pursuant to Rule 4009.22.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

24

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Harold J. Roos Jr.
Plaintiff(s)

Vs.

Robert W. Bish
Tri Mount, Inc.
Defendant(s)

No. 2005-00357-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: 611 Open MRI & CT

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Please see attachment.

Walsh, Collis & Blackmer, P.C.
707 Grant Street (Address)
Suite 1400, Pittsburgh, PA 15219.

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Danielle M. Vugrinovich, Esquire


ADDRESS: 707 Grant Street, Suite 1400
Pittsburgh, PA 15219

TELEPHONE: (412) 258-2255

SUPREME COURT ID # 88326

ATTORNEY FOR: Defendants

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, May 22, 2006
Seal of the Court

Deputy

ATTACHMENT TO 611 OPEN MRI & CT'S SUBPOENA

Please produce the following diagnostic films and corresponding reports of Harold Roos, Jr.
(Date of Birth: November 26, 1951 and Social Security Number: 195-40-9438):

1. June 16, 2004 MRI of lumbar spine;
2. March 16, 2005 MRI of the cervical spine; and,
3. Any other diagnostic films and corresponding reports of the lumbar, thoracic or cervical spine and bilateral knees.

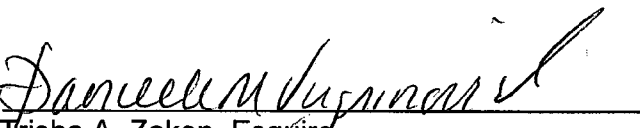
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Certificate Pre-Requisite to Service of a Subpoena Upon 611 Open MRI & CT Pursuant to Rule 4009.22** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 2nd day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

**CERTIFICATE PRE-REQUISITE TO
SERVICE OF A SUBPOENA UPON
CLEARFIELD HOSPITAL PURSUANT
TO RULE 4009.22**

Defendants.

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. No. 88326

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED ^{No} _{cc}
m 11:12 AM
JUN 06 2006 (5)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

**CERTIFICATE PRE-REQUISITE TO SERVICE OF A SUBPOENA UPON CLEARFIELD
HOSPITAL PURSUANT TO RULE 4009.22**


As a pre-requisite to service of a Subpoena for documents and things pursuant to Rule 4009.22, the Defendant certifies that:

1. Plaintiff's counsel waived the twenty (20) day notice requirement on May 18, 2002 in order to expedite this matter for trial.
2. The Subpoena which has been served is identical to the Subpoena which is attached to this Certificate Pre-Requisite to Service of a Subpoena upon Clearfield Hospital Pursuant to Rule 4009.22.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Harold J. Roos Jr.
Plaintiff(s)

Vs.

Robert W. Bish
Tri Mount, Inc.
Defendant(s)

*

*

*

No. 2005-00357-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Clearfield Hospital

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to
produce the following documents or things:

Please see attachment.

Walsh, Collis & Blackmer, P.C.
707 Grant Street, Suite 1400 (Address)
Pittsburgh, PA 15219

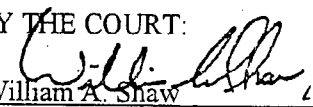
You may deliver or mail legible copies of the documents or produce things requested by
this subpoena, together with the certificate of compliance, to the party making this request at the
address listed above. You have the right to seek in advance the reasonable cost of preparing the
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty
(20) days after its service, the party serving this subpoena may seek a court order compelling you
to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Danielle M. Vugrinovich, Esquire
ADDRESS: 707 Grant Street, Suite 1400
Pittsburgh, PA 15219
TELEPHONE: (412) 258-2255
SUPREME COURT ID # 88326
ATTORNEY FOR: Defendants

BY THE COURT:


William A. Shaw *LM*
Prothonotary/Clerk, Civil Division

DATE: Monday, May 22, 2006
Seal of the Court

Deputy

ATTACHMENT TO CLEARFIELD HOSPITAL'S SUBPOENA

Please produce the following diagnostic films and corresponding reports of Harold Roos, Jr.
(Date of Birth: November 26, 1951 and Social Security Number: 195-40-9438):

1. August 6, 1994 MRI of right knee;
2. November 13, 2003 CT scan of lumbar spine; and,
3. Any other diagnostic films and corresponding reports of the lumbar, thoracic or cervical spine and bilateral knees.

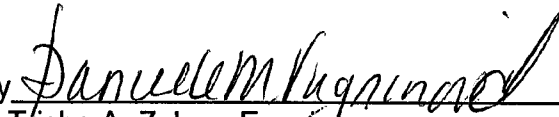
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Certificate Pre-Requisite to Service of a Subpoena Upon Clearfield Hospital Pursuant to Rule 4009.22** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 2nd day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By



Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**CERTIFICATE PRE-REQUISITE TO
SERVICE OF A SUBPOENA UPON
LEWISTOWN HOSPITAL PURSUANT
TO RULE 4009.22**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. No. 88326

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *no cc*
m 11:12 AM
JUN 06 2006 *um*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

**CERTIFICATE PRE-REQUISITE TO SERVICE OF A SUBPOENA UPON LEWISTOWN
HOSPITAL PURSUANT TO RULE 4009.22**

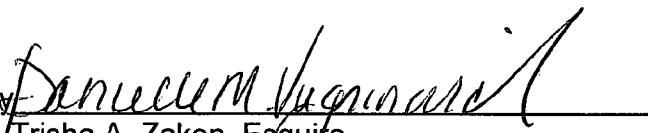
As a pre-requisite to service of a Subpoena for documents and things pursuant to Rule 4009.22, the Defendant certifies that:

1. Plaintiff's counsel waived the twenty (20) day notice requirement on May 18, 2002 in order to expedite this matter for trial.
2. The Subpoena which has been served is identical to the Subpoena which is attached to this Certificate Pre-Requisite to Service of a Subpoena upon Lewistown Hospital Pursuant to Rule 4009.22.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Harold J. Roos Jr.
Plaintiff(s)

Vs.

Robert W. Bish
Tri Mount, Inc.
Defendant(s)

No. 2005-00357-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Lewistown Hospital
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Please see attachment.

Walsh, Collis & Blackmer, P.C.
707 Grant Street (Address)
Suite 1400, Pittsburgh, PA 15219

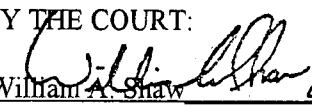
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Danielle M. Vugrinovich, Esquire
ADDRESS: 707 Grant Street, Suite 1400
Pittsburgh, PA 15219
TELEPHONE: (412) 258-2255
SUPREME COURT ID # 88326
ATTORNEY FOR: Defendants

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, May 22, 2006
Seal of the Court

Deputy

ATTACHMENT TO LEWISTOWN HOSPITAL'S SUBPOENA

Please produce the following diagnostic films and corresponding reports of Harold Roos, Jr.
(Date of Birth: November 26, 1951 and Social Security Number: 195-40-9438):

1. November 25, 2003 MRI of lumbar spine; and,
2. Any other diagnostic films and corresponding reports of the lumbar, thoracic or cervical spine and bilateral knees.

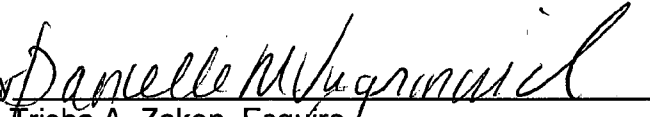
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Certificate Pre-Requisite to Service of a Subpoena Upon Lewistown Hospital Pursuant to Rule 4009.22** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 2nd day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By



Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**CERTIFICATE PRE-REQUISITE TO
SERVICE OF A SUBPOENA UPON
PHILIPSBURG HOSPITAL PURSUANT
TO RULE 4009.22**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. No. 88326

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *no cc*
m 11:12 AM
JUN 06 2006 *(initials)*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

**CERTIFICATE PRE-REQUISITE TO SERVICE OF A SUBPOENA UPON
PHILIPSBURG HOSPITAL PURSUANT TO RULE 4009.22**

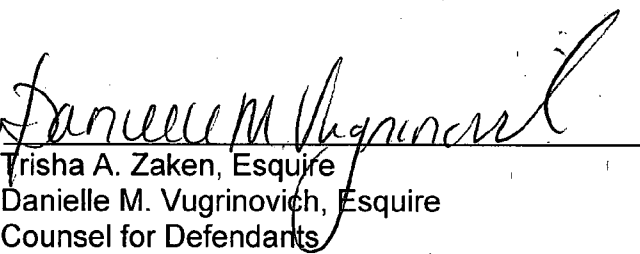
As a pre-requisite to service of a Subpoena for documents and things pursuant to Rule 4009.22, the Defendant certifies that:

1. Plaintiff's counsel waived the twenty (20) day notice requirement on May 18, 2002 in order to expedite this matter for trial.
2. The Subpoena which has been served is identical to the Subpoena which is attached to this Certificate Pre-Requisite to Service of a Subpoena upon Philipsburg Hospital Pursuant to Rule 4009.22.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Harold J. Roos Jr.
Plaintiff(s)

Vs.

Robert W. Bish
Tri Mount, Inc.
Defendant(s)

No. 2005-00357-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Philipsburg Hospital
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Please see attachment.

Walsh, Collis & Blackmer, P.C.
707 Grant Street (Address)
Suite 1400, Pittsburgh, PA 15219

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Danielle M. Vugrinovich, Esquire

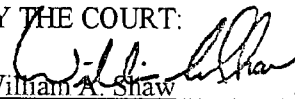
ADDRESS: 707 Grant Street, Suite 1400
Pittsburgh, PA 15219

TELEPHONE: (412) 258-2255

SUPREME COURT ID # 88326

ATTORNEY FOR: Defendants

BY THE COURT:


William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Monday, May 22, 2006
Seal of the Court

Deputy

ATTACHMENT TO PHILIPSBURG HOSPITAL'S SUBPOENA

Please produce the following diagnostic films and corresponding reports of Harold Roos, Jr.
(Date of Birth: November 26, 1951 and Social Security Number: 195-40-9438):

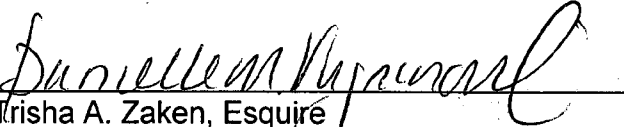
1. June 27, 2003 x-ray of left knee; and,
2. Any other diagnostic films and corresponding reports of the lumbar, thoracic or cervical spine and bilateral knees.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Certificate Pre-Requisite to Service of a Subpoena Upon Philipsburg Hospital Pursuant to Rule 4009.22** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 2nd day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By 
Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**CERTIFICATE PRE-REQUISITE TO
SERVICE OF A SUBPOENA UPON
UNIVERSITY ORTHOPEDICS CENTER
PURSUANT TO RULE 4009.22**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. No. 88326

WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *no cc*
m 11:12 AM
JUN 06 2006 *LN*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

**CERTIFICATE PRE-REQUISITE TO SERVICE OF A SUBPOENA UPON UNIVERSITY
ORTHOPEDICS CENTER PURSUANT TO RULE 4009.22**

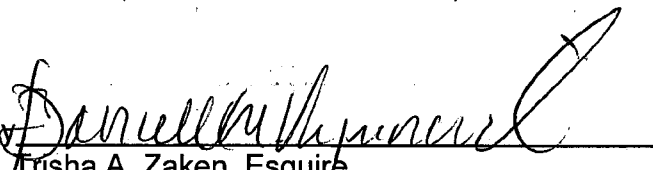
As a pre-requisite to service of a Subpoena for documents and things pursuant to Rule 4009.22, the Defendant certifies that:

1. Plaintiff's counsel waived the twenty (20) day notice requirement on May 18, 2002 in order to expedite this matter for trial.
2. The Subpoena which has been served is identical to the Subpoena which is attached to this Certificate Pre-Requisite to Service of a Subpoena upon University Orthopedics Center Pursuant to Rule 4009.22.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

Harold J. Roos Jr.
Plaintiff(s)

Vs.

Robert W. Bish
Tri Mount, Inc.
Defendant(s)

No. 2005-00357-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: University Orthopedics Center
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Please see attachment.

Walsh, Collis & Blackmer, P.C.
707 Grant Street (Address)
Suite 1400, Pittsburgh, PA 15219

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Danielle M. Vugrinovich, Esquire
ADDRESS: 707 Grant Street, Suite 1400
Pittsburgh, PA 15219
TELEPHONE: (412) 258-2255
SUPREME COURT ID # 88326
ATTORNEY FOR: Defendants

BY THE COURT:

William A. Shaw *WAS*
Prothonotary/Clerk, Civil Division

DATE: Monday, May 22, 2006
Seal of the Court

Deputy

ATTACHMENT TO UNIVERSITY ORTHOPEDICS CENTER'S SUBPOENA

Please produce the following diagnostic films and corresponding reports of Harold Roos, Jr.
(Date of Birth: November 26, 1951 and Social Security Number: 195-40-9438):

1. December 9, 1996 x-ray of of bilateral knees;
2. November 25, 2002 MRI of the lumbar spine;
3. November 21, 2003 x-ray of the bilateral knees;
4. July 2, 2003 x-ray of bilateral knees; and,
5. Any and all other diagnostic films of the lumbar, thoracic or cervical spine and bilateral knees.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Certificate Pre-Requisite to Service of a Subpoena upon University Orthopedics Center Pursuant to Rule 4009.22** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 2nd day of June, 200 .

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, L.L.C.

By Danielle M. Vugrinovich
Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

CA

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William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
Plaintiff

v.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants

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*
*
* No. 05-357-CD
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*

AND NOW, this 12 RULE day of June, 2006, upon consideration of the attached Petition to Enforce Settlement, a Rule is hereby issued upon Defendant to Show Cause why the Petition to Enforce Settlement should not be granted. Rule Returnable for written response on the 12th of July, 2006.

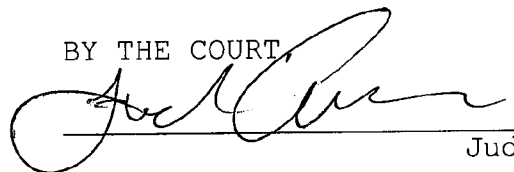
NOTICE

A PETITION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION, YOU MUST TAKE ACTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
Market Street
Clearfield, PA 16830
(814) 765-2641

BY THE COURT


Judge

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JUN 12 2006
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(60)

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 06/12/06

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

FILED

JUN 12 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

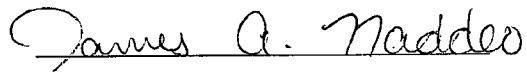
Plaintiff's Motion in Limine

NOW COMES THE PLAINTIFF, HAROLD J. ROOS, JR., and by and through his attorneys, requests this Court to enter an Order in Limine, to prevent any testimony by the Defendant concerning any of the following matters:

1. Any matters relating to issues of liability.

WHEREFORE, Plaintiff HAROLD J. ROOS, JR., respectfully requests of the Court an order preventing the aforementioned testimony by the Defendant.

Respectfully Submitted,



James A. Naddeo, Esquire
Attorney for Plaintiff

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William A. Shaw
Prothonotary/Clerk of Courts

013:383
JUN 13 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

Certificate of Service

I, Harold J. Roos, Jr., do hereby certify that
copies of Plaintiff's Motion in Limine were served on the
following parties this 13th day of June, 2006:

First Class Mail, Postage Prepaid

Danielle M. Vugrinovich
Walsh, Collis & Blackmer
The Gulf Tower
Suite 1400
707 Grant Street
Pittsburgh, PA 15219

James A. Naddeo
James A. Naddeo
Attorney for Appellant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

**CERTIFICATE OF COMPLIANCE
WITH SUBPOENA UPON 611
OPEN MRI & CT**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH
P.A. I.D. No. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

JUN 19 2006

m/2:00/w
William A. Shaw

Prothonotary/Clerk of Courts

NO C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

CERTIFICATE OF COMPLIANCE WITH SUBPOENA UPON 611 OPEN MRI & CT

Please see attached as Exhibit A, the Certificate of Compliance with the subpoena upon 611 Open MRI & CT to produce documents or things pursuant to Rule 4009.23, which was executed by Dina L. Leslie on May 31, 2006.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By


Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

NOTICE

TO: Records Custodian of 611 Open MRI & CT

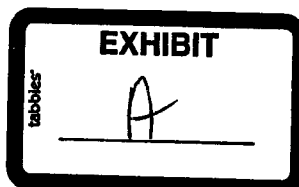
You are required to complete the following Certificate of Compliance when producing documents or things to the Subpoena.

**CERTIFICATE OF COMPLIANCE WITH SUBPOENA TO PRODUCE DOCUMENTS
OR THINGS PURSUANT TO RULE 4009.23**

I, Dina L. Leslie on behalf of 611 MRI/CT certify to the best of my knowledge, information and belief that all documents or things required to be produced pursuant to this subpoena issued on 23 May 2006 have been produced.

Date: 31 May 2006

dina L. Leslie



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Certificate of Compliance for Subpoena upon 611 Open MRI & CT** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 16th day of June, 2006

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Danielle M. Vugrinovich
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**PROOF OF SERVICE OF SUBPOENA
UPON LEWISTOWN HOSPITAL**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. NO. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED
JUN 19 2006
m/1:55/wm
William A. Shaw
Prothonotary/Clerk of Courts
no c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

PROOF OF SERVICE OF SUBPOENA UPON LEWISTOWN HOSPITAL

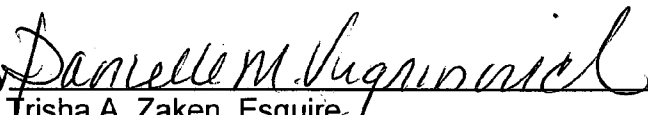
AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their attorneys, Walsh, Collis & Blackmer, P.C., Trisha A. Zaken, Esquire, and Danielle M. Vugrinovich, Esquire, and file the following Proof of Service of Subpoena upon Lewistown Hospital, and in support thereof aver as follows:

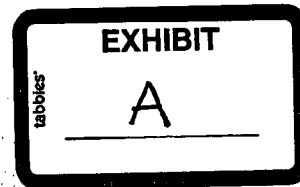
1. A Subpoena in connection with the above-captioned matter was served via certified mail return receipt requested on the Records Custodian of Lewistown Hospital, 400 Highland Avenue, Lewistown, PA 17044.
2. Attached hereto and marked as "Exhibit A" is a copy of the return of service signed by Malcolm Fulton and dated May 25, 2006.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Address</p> <p><i>X Mahab Tutto</i></p> <p>B. Received by (Printed Name) C. Date of Delivery</p> <p><i>MALCOLM FULTON</i> <i>1/25/04</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
1. Article Addressed to:		3. Service Type	
<i>Lewistown Hospital</i> <i>400 Highland Avenue</i> <i>Lewistown, PA 17044</i>		<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (Transfer from service label)		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-15	

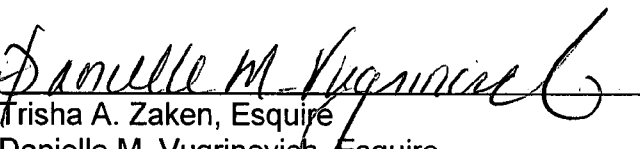
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Proof of Service of Subpoena upon Lewistown Hospital** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 16th day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

FILED

JUN 19 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**PROOF OF SERVICE OF SUBPOENA
UPON PHILIPSBURG HOSPITAL**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. NO. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

JUN 19 2006

m/1:55/w
William A. Shaw
Prothonotary/Clerk of Courts
wo c/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

PROOF OF SERVICE OF SUBPOENA UPON PHILIPSBURG HOSPITAL

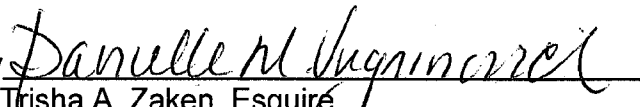
AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their attorneys, Walsh, Collis & Blackmer, P.C., Trisha A. Zaken, Esquire, and Danielle M. Vugrinovich, Esquire, and file the following Proof of Service of Subpoena upon Philipsburg Hospital, and in support thereof aver as follows:

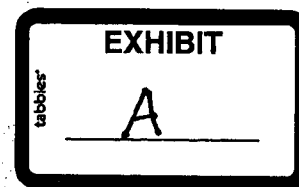
1. A Subpoena in connection with the above-captioned matter was served via certified mail return receipt requested on the Records Custodian of Philipsburg Hospital, 210 Loch Lomand Road, Philipsburg, PA 16866.
2. Attached hereto and marked as "Exhibit A" is a copy of the return of service signed by Shirley Harnish and dated May 25, 2006.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature <i>Shirley Harris</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>SHIRLEY HARRIS</i></p> <p>C. Date of Delivery <i>5-25</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
1. Article Addressed to: <i>Phillipsburg Hospital 210 Loch Lomond Rd. Phillipsburg, PA 16806</i>		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (Transfer from service label)		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
		7005 1820 0003 0013 2996	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Proof of Service of Subpoena upon Philipsburg Hospital** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 16th day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Danielle M. Vugrinovich
Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

FILED

JUN 19 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**PROOF OF SERVICE OF SUBPOENA
UPON CLEARFIELD HOSPITAL**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. NO. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

JUN 19 2006

0/1:55/6
William A. Shaw
Prothonotary/Clerk of Courts
no C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

PROOF OF SERVICE OF SUBPOENA UPON CLEARFIELD HOSPITAL

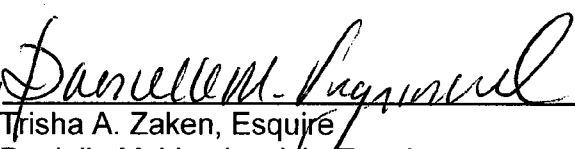
AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their attorneys, Walsh, Collis & Blackmer, P.C., Trisha A. Zaken, Esquire, and Danielle M. Vugrinovich, Esquire, and file the following Proof of Service of Subpoena upon Clearfield Hospital, and in support thereof aver as follows:

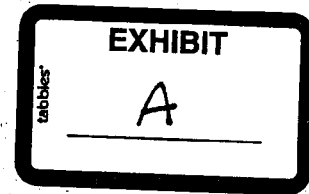
1. A Subpoena in connection with the above-captioned matter was served via certified mail return receipt requested on the Records Custodian of Clearfield Hospital, 809 Turnpike Avenue, Clearfield, PA 16830.
2. Attached hereto and marked as "Exhibit A" is a copy of the return of service signed by Marty Young and dated May 25, 2006.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Clearfield Hospital 809 Turnpike Avenue Clearfield, PA 16830</p>		<p>B. Received by (Printed Name) <i>Mary Young</i> C. Date of Delivery <i>5-25-06</i></p>	
		<p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No <i>P.O. Box 992 Clearfield, Pa. 16830</i></p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7005 1820 0003 0013 2972</p>	
PS Form 3811, February 2004		Domestic Return Receipt 102595-02-M-1540	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Proof of Service of Subpoena upon Clearfield Hospital** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 16th day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

FILED
JUN 19 2006
William A. Shaw
Prothonotary/Clerk of Courts

[Faint, illegible handwritten text]

[Faint, illegible handwritten text]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

**PROOF OF SERVICE OF SUBPOENA
UPON 611 OPEN MRI & CT**

Defendants.

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. NO. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED
JUN 19 2006
m/1.551 (m)
William A. Shaw
Prothonotary/Clerk of Courts
no C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

PROOF OF SERVICE OF SUBPOENA UPON 611 OPEN MRI & CT

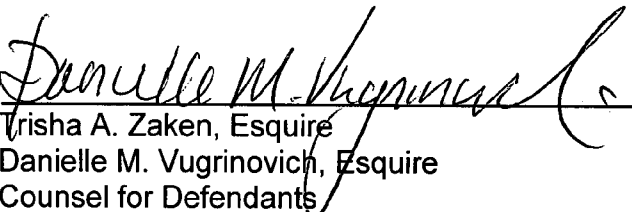
AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their attorneys, Walsh, Collis & Blackmer, P.C., Trisha A. Zaken, Esquire, and Danielle M. Vugrinovich, Esquire, and file the following Proof of Service of Subpoena upon 611 Open MRI & CT, and in support thereof aver as follows:

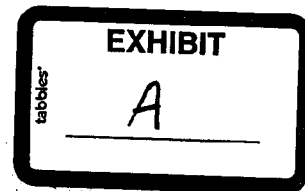
1. A Subpoena in connection with the above-captioned matter was served via certified mail return receipt requested on the Records Custodian of 611 Open MRI & CT, 611 University Drive, State College, PA 16801.
2. Attached hereto and marked as "Exhibit A" is a copy of the return of service signed by Stacey Horner and dated May 25, 2006.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <input checked="" type="checkbox"/> <i>Stacey Horner</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee		
	B. Received by (Printed Name) <i>STACEY HORNER</i>	C. Date of Delivery <i>5/25/06</i>	
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No		
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes			
1. Article Addressed to: <i>611 Open MRI & CT 611 University Drive State College, PA 16801</i>			
2. Article Number (Transfer from service label)	7005 1820 0003 0013 3009		
PS Form 3811, February 2004 Domestic Return Receipt		102595-02-M-1540	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Proof of Service of Subpoena upon 611 Open MRI & CT** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 19th day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Danielle M. Vugrinovich
Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

**PROOF OF SERVICE OF SUBPOENA
UPON UNIVERSITY ORTHOPEDICS
CENTER**

Defendants.

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
P.A. I.D. NO. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

JUN 19 2006

W (1:55/2)
William A. Shaw
Prothonotary/Clerk of Courts
No C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

PROOF OF SERVICE OF SUBPOENA UPON UNIVERSITY ORTHOPEDICS CENTER

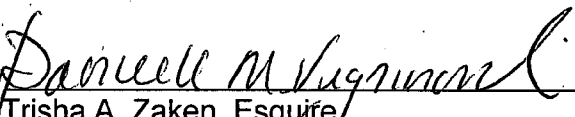
AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their attorneys, Walsh, Collis & Blackmer, P.C., Trisha A. Zaken, Esquire, and Danielle M. Vugrinovich, Esquire, and file the following Proof of Service of Subpoena upon University Orthopedics Center, and in support thereof aver as follows:

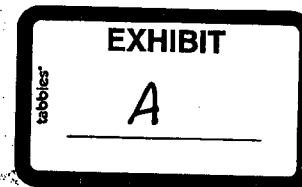
1. A Subpoena in connection with the above-captioned matter was served via certified mail return receipt requested on the Records Custodian of University Orthopedics Center, Suite 200, 476 Rolling Ridge Drive, State College, PA 16801.
2. Attached hereto and marked as "Exhibit A" is a copy of the return of service signed by Nicole Hill and dated May 25, 2006.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By


Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature x <i>Nichole Hill</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to: <i>University Orthopedics center Suite 200 476 Rolling Ridge Drive State College, PA 16801</i></p>		<p>B. Received by (Printed Name) <i>Nichole Hill</i></p>	
		<p>C. Date of Delivery <i>5-25-6</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>7005 1820 0003 0013 2989</p>			
PS Form 3811, February 2004		Domestic Return Receipt 102595-02-M-1540	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Proof of Service of Subpoena upon University Orthopedics Center** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 16th day of June, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Danielle M. Vugrinovich
Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

FILED
JUN 19 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S MOTION IN LIMINE**

Defendants.

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED NOCC
m112:5724
JUL 10 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION IN LIMINE

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, PC, and Trisha A. Zaken, Esquire, and file the following Response to Plaintiff's Motion in Limine and in support thereof aver as follows:

1. On or about May 9, 2005, Plaintiff filed this civil action against Defendants in the Court of Common Pleas of Clearfield Count, Pennsylvania.

2. This suit arises out of a motor vehicle accident that occurred on or about June 27, 2003, on State Route 52 in Morris Township, Clearfield County, Pennsylvania.

3. Plaintiff claims that Defendant, Robert Bish, failed to negotiate a right curve in the roadway and crossed over the centerline into the northbound land of travel where he collided with the vehicle operated by the Plaintiff. See Plaintiff's Complaint attached hereto and labeled at Exhibit "A."

4. Plaintiff claims the following injuries:

- a. abrasions to the chest,
- b. large anterior contusions to both knees,
- c. exacerbation of pre-existing knee replacements,

- d. lumbar strain,
- e. exacerbation of pre-existing degenerative changes of the lumbar spine,
- f. bulging discs of the lumbar spine,
- g. exacerbation of pre-existing degenerative changes of the cervical spine; and,
- h. bulging discs of the cervical spine.

5. Plaintiff is seeking damages for past, present, and future pain and suffering; past, present, and future privation and inconvenience; future medical expenses; lost wages; impairment of earning power; and all other damages permitted by the law.

6. On or about June 7, 2006, Plaintiff filed a Motion in Limine seeking an Order in Limine preventing any testimony concerning "any matters relating to the issues of liability."

7. On June 12, 2006, the Court entered a Rule to Show Cause why the Motion in Limine should not be granted.¹

8. The Rule Returnable was issued for written response was on July 12, 2006 and Defendants' file the herein Response thereto.

9. Throughout discovery, Defendants have found that Plaintiff had multiple pre-existing injuries to parts of the body he alleges injury to in the present matter.

10. Plaintiff underwent left knee surgery prior to the accident which was performed by Thomas Ellis, D.O. with University Orthopedic Center, on January 8, 1997, and right knee surgery on October 17, 2002, which was also performed by Dr.

¹ The Rule to Show Cause actually states ". . . upon consideration of the attached Petition to Enforce Settlement, a Rule is hereby issued upon Defendant to Show Cause why the Petition to Enforce Settlement should not be granted." Defendants believe the Rule to Show Cause contained a typographical error in that it should have referred to the Motion in Limine not a Petition to Enforce settlement which is not applicable in this matter.

Ellis. Plaintiff underwent bilateral knee arthroplasty on May 7, 2003 which was performed by Dr. Ellis.

11. Plaintiff also had back problems of a degenerative nature which pre-existed the accident at issue in this matter.

12. Plaintiff has been employed as a boilermaker but was not working at the time of the accident at issue due to his knee surgeries. See Deposition of Plaintiff pp. 21, 28-29, attached hereto and marked as Exhibit "A."

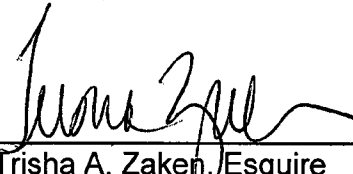
13. Prior to this motor vehicle accident of June 27, 2003, Plaintiff reported in a physical therapy session that he may not be able to return to work as a boiler operator because it would put too much pressure on his knees. See Physical therapy record dated June 11, 2003 attached hereto and marked as Exhibit "B."

14. Because of Plaintiff's pre-existing knee and back injuries and conditions, and doubtful return to work status prior to this accident, Defendants will not stipulate to liability for the damages which Plaintiff claims resulted from to this motor vehicle accident.

WHERE, Defendants, Robert W. Bish and Trimount, Inc., respectfully request this Honorable Court to deny Plaintiff's Motion in Limine.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, L.L.C.

By 

Trisha A. Zaken, Esquire
Counsel for Defendants

HAROLD J. ROOS, JR.

1

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA CIVIL DIVISION

HAROLD J. ROOS, JR.) NO. 2005-00357 CD
PLAINTIFF)
VS.)
ROBERT W. BISH AND)
TRIMOUNT, INC.,)
DEFENDANT)

* * * * *

DEPOSITION OF HAROLD ROOS, JR., TAKEN ON
FRIDAY, SEPTEMBER 23, 2005, AT 1:00 P.M. AT THE OFFICES
OF JAMES NADDEO, ESQUIRE, 207 E. MARKET STREET,
CLEARFIELD, PENNSYLVANIA, 16830, BEFORE
SUSAN E. KINIRY, RMR, NOTARY PUBLIC.

* * * * *

ORIGINAL

SNYDE

RVICES

EXHIBIT

A

1 Q It is my understanding you weren't working
2 at the time of this accident?

3 A Right.

4 Q You were off work?

5 A Right.

6 Q Do you recall who the first doctor was you
7 treated with after you were discharged from the
8 emergency room?

9 A Dr. Ellis.

10 Q Had you been treating with Dr. Ellis prior
11 to this accident?

12 A Yes.

13 Q And was that for your knees?

14 A Yes.

15 Q According to the records that I have
16 obtained, you went to Dr. Ellis on July 2nd roughly
17 what is that 5 days after this accident; does that
18 sound right?

19 A Yep.

20 Q Okay. And do you recall what Dr. Ellis
21 did for you--strike that--do you recall--well, what
22 were your complaints to Dr. Ellis?

23 A That my knees were sore. They swelled up.

24 Q After this accident?

25 A Yes.

1 understand. Do your knees give you any problems
2 right now?

3 A Sometimes.

4 Q Can you tell me what those problems are?

5 A Yeah, like if I stand too long they
6 just--they build up pressure, so you got to sit down
7 and relax it.

8 Q Do you use a cane at all?

9 A What is that?

10 Q A cane, do you use a cane at all?

11 A Sometimes.

12 Q Have your doctors advised you that you are
13 not able to work?

14 A Yes.

15 Q When did they advise you you were not able
16 to work?

17 A After this accident.

18 Q It was after this accident?

19 A Um-hum.

20 Q Were you told prior to this accident that
21 you were not able to work?

22 A No.

23 Q I understand you had knee surgery a bit
24 before this accident happened?

25 A Yes.

Q Had you returned to work?

A No.

Q Prior to this motor vehicle accident did you participate in any type of organized sporting activities or have any type of hobbies that you like to do?

A Could you repeat that again?

Q Sure, prior to this accident did you participate in any type of sporting activities or did you do--have any hobbies?

A Yes.

Q What were those?

A I used to hunt and fish.

Q Have you been able to go hunting since this motor vehicle accident?

A No.

Q How about fishing?

A No.

Q Have you been able to go on any vacations since this accident?

A No.

Q Who takes care of the household cleaning?

A My daughter.

Q How about the yard work?

A Her husband.

PHILIPSBURG
AREA
HOSPITAL



210 LOCH LOMOND ROAD
PHILIPSBURG, PA 16866

Patient Progress Notes

☐ Physical ☐ Occupational ☐ Speech

Patient Name (last, first, initial)	Birthdate	Medical Rec. No.	Physician Name
Roos, Harold	11-26-51		
Facility Name	Provider No.	HIC No.	<input type="checkbox"/> Part A <input type="checkbox"/> Part B <input type="checkbox"/> Other
Philipsburg Area Hospital			

Date

Notes

DATE: 06-09-2003

NAME: ROOS, HAROLD

The patient is continuing to make progress from his bilateral total knee replacement. We remain consistent in our treatment delivery of on table passive and AAROM followed by tabletop isotonic procedures wheelchair stretch, kinetron, kin com and recumbent bike are all being continued and well tolerated by this gentleman. Knee flexion remains in the low 120's. Our goal is to elevate this as close to 130° bilaterally as possible. Strength of the quads is continued to show promise as he is tolerating gradual advancements in the kin com isometric program. We will see this gentleman again on Wednesday and will continue our gradually progressive approach.

Jim Callovini, PT, GCS

nm

DATE: 6-11-03

NAME: ROOS, HAROLD

- S: patient reports that the doctor is very pleased with his knees as far as how they are moving and his gait activities. He told that he may not be able to go back to work activities that he would be doing as a Union boiler operator because this would be too much pressure on his knees.
- O: We treated the patient with manual therapy to both knees we did some 1 1/2 lb. straight leg raises, 1 1/2 lb. short arc quads, kinetron for 10 min., recumbent bike seat at 10 for 10 min. and Kin Com for isometric quads to both lower extremities.
- A: Patient tolerated the treatment itself well we feel that there is continued improvement both in flexion extension however he was a little sore today because he had stood at the garden and did a lot of weeding and activities that seemed to aggravate him somewhat.
- P: Continue with the treatment continue to try to improve both knees to improve both movement and strength.

Keith Hahn, PTA

DATE: 6-13-03

NAME: ROOS, HAROLD

- S: Patient states that he feels pretty tight today. he was doing some work in the garden and standing for a two hour period of time.
- O: patient received manual stretching to calves, quads and hamstrings. patient continues to utilize Kin Com with changes to left lower extremity pounds 0° at 4 lb., 10° at 5 lb., 20° at 6 lb., 30° at 7 lb. and 40° at 8 lb. patient continues to have the same of right with 0° at 5 lb., 10° at 8 lb., 20° at 11 lb., 30° at 14 lb., 40° at 17 lb. Patient continues to utilize kinetron and recumbent bike. patient measured today in knee flexion left lower extremity knee flexion at 128°, right lower extremity knee flexion at 125°
- A: patient continues to improve with treatment.
- P: Patient to continue with plan of care with increase to Kin Com for right lower extremity.

EXHIBIT

B

tabbies

Amanda Zwolski, PTA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2006, the Plaintiff's Motion in
Limine is **DENIED**.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **MOTION IN LIMINE** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 7 day of July, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Zaken
Trisha A. Zaken, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

No. 05 - 357 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

O 3:34 p.m. 6K
JUL 19 2006

William A. Shaw
Prothonotary/Clerk of Courts

1 CC TO ATTY
CWS

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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*
*
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*
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*
*

No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
copy of the Order was served on the following and in the following
manner on the 19th day of July, 2006:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
An Individual,
Plaintiff,

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants.

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No. 05 - 357 - CD

ORDER

AND NOW, this 18th day of July, 2006, it is the ORDER
of this Court that argument upon Plaintiff's Motion in Limine is
scheduled for the 5th day of September, 2006, at 9:00 a.m. in
Courtroom No. 1, Clearfield County Courthouse, Clearfield,
Pennsylvania.

BY THE COURT,



DATE: 7/19/06

☒ You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

FILED

JUL 19 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

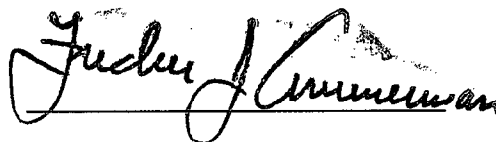
HAROLD J. ROOS, JR. :
VS. : NO. 05-357-CD
ROBERT W. BISH and :
TRI MOUNT, INC. :

O R D E R

AND NOW, this 5th day of September, 2006, following argument on the Plaintiff's Motion in Limine, it is the ORDER of this Court that Defendants shall have no more than thirty (30) days from this date in which to supply supplemental answers to the Plaintiff's interrogatories relative the issues of the Defendant's medical status and his ability to recall any of the circumstances relating to any accident and as to how the accident occurred and any defense which may be asserted including, but not limited to, that of sudden emergency.

The Plaintiff's Motion in Limine is hereby dismissed, without prejudice.

BY THE COURT,



President Judge

FILED ICC Attys:
93:36cm Naddes
SEP 06 2006 D. Vigrinovich
T. Zaken

William A. Shaw
Prothonotary/Clerk of Courts



DATE: _____

____ You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

FILED

SEP 06 2006

**William A. Shaw
Prothonotary/Clerk of Courts**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

NOTICE OF SERVICE

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
PA. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
PA I.D. No. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *no cc*
3112:45/311
OCT 04 2006 *lm*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

NOTICE OF SERVICE

To: Prothonotary

The undersigned herein represents that Defendants' Supplemental Answers to Plaintiff's Interrogatories were sent to James Naddeo, Esquire on October 2, 2006.

WALSH, COLLIS & BLACKMER, P.C.

By

A handwritten signature in black ink, appearing to read "Trisha Zaken" followed by a stylized flourish or date "11/21/06".

Trisha A. Zaken, Esquire

Danielle M. Vugrinovich, Esquire

Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Defendants'**
Notice of Service has been mailed by U.S. Mail to counsel of record via first class mail,
postage pre-paid, this 2nd day of October, 2006.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By

The signature is written in cursive and appears to read "Trisha Zaken" followed by the initials "TRT".

Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

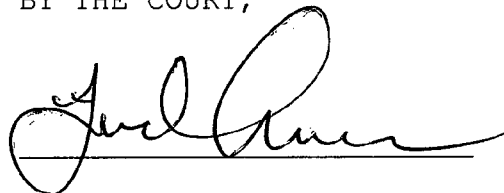
ROBERT W. BISH and TRIMOUNT, INC.,

No. 05 - 357 - CD

ORDER

AND NOW, this 26 day of October,
2006, upon consideration of Plaintiff's Second Motion in
Limine, it is the ORDER of this Court that argument upon
Plaintiff's Motion in Limine is scheduled for the 9th,
day of November, 2006, at 3:00 P.M. in
Courtroom No. 1, Clearfield County Courthouse,
Clearfield, Pennsylvania.

BY THE COURT,



FILED

OCT 30 2006

OCT 30 2006

William A. Shaw
Prothonotary/Clerk of Courts

CC TO ATTY
MAILED

62

DATE: 10-30-06

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

FILED

OCT 30 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

No. 05 - 357 - CD

Type of Pleading:

**PLAINTIFF'S SECOND MOTION
IN LIMINE**

Filed on behalf of:
PLAINTIFF

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

DATED: October 25, 2006

FILED

OCT 25 2006

0/3:30/4
William A. Shaw
Prothonotary/Clerk of Courts

1 Cent to ATT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

PLAINTIFF'S SECOND MOTION IN LIMINE

NOW COMES the Plaintiff, Harold Roos, Jr., and by his attorney, James A. Naddeo, Esquire, moves this Court to enter an Order in Limine to prevent any testimony by the Defendant, Robert W. Bish concerning the following matter:

1. Any matter relating to the circumstances of the accident which occurred on June 27, 2003 and specifically how the accident may or may not have occurred.

In support thereof Plaintiff further avers as follows:

1. On or about May 9, 2005, Plaintiff filed this civil action against defendants in the Court of Common Pleas of Clearfield County, Pennsylvania.

2. This suit arose out of a motor vehicle accident that occurred on or about June 27, 2003.

3. Plaintiff has addressed interrogatories to defendants in this case, which defendants answered. Answers

were served upon plaintiff on or about October 4, 2006. A true and correct copy of Defendants Supplemental Answers to Plaintiff's Interrogatories (in pertinent part, including pages 1-13) is attached hereto as Exhibit "A."

4. Several of the interrogatories to defendants are addressed to Robert W. Bish regarding how the accident in question may have occurred.


5. That each interrogatory regarding how the accident may have occurred is answered by the defendants as "Unknown." (Please see Exhibit A, Interrogatory numbers 3, 5(g), 6(c) and (g), 7(d)-(h), 8, 9, 14, 16, 17, 18, 19, 20, 23, 25.)

6. That further explanation by the defendants states that the reason for the "unknown" replies (as described in paragraph five above) is that "Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss." (For example, please see Exhibit A, Interrogatory number 3.)

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant plaintiff's Motion in Limine and exclude testimony by defendant, Robert W. Bish regarding

the circumstances of the accident on June 27, 2003 and more specifically, how it may or may not have occurred.

Respectfully submitted,

By 
James A. Naddeo, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

DEFENDANTS' SUPPLEMENTAL ANSWERS TO PLAINTIFF'S INTERROGATORIES

1. State:

(a) Your name, age, date and place of birth;

Name: Robert W. Bish;

Age: 68; — he's 69

Date of Birth: 6/2/37; and

Place of Birth: Philipsburg, Pennsylvania.

(b) Any other name by which you have ever been known;

None.

(c) Your present address and your address at the time of the accident;

Time of Accident:

RD # 3, Box 171

Philipsburg, Pennsylvania

Current:

367 Old Route 322

Philipsburg, Pennsylvania

(same residence; address change due to 911 program)

(d) Your marital status at the time of the accident;

Married.

Exhibit "A"

(e) Your present marital status;

Married.

(f) Your Social Security Number;

160-30-9986

(g) Whether you are a licensed driver and, if so, where and when were you first licensed;

Mr. Bish was a licensed driver at the time of the accident. He was first licensed in Pennsylvania; however, the date upon which he was first licensed is unknown. Mr. Bish is no longer a licensed driver.

(h) Any and all restrictions on your driver's license at the time of the accident and at present;

None at the time of the accident.

(i) Your operator's license number;

PA 09657154

(j) Whether you have any physical defects, and if so, their nature and duration;

Objection to form of question in that "physical defects" is not further defined. This Interrogatory is also objected to in that it elicits a medical expert opinion. Without waiving objection and subject thereto:

At the time of the motor vehicle accident, Bish had diabetes. Currently, Bish has diabetes, dementia, and problems with his hip and knees as a result of the motor vehicle accident. Discovery is ongoing.

(k) Whether you had taken any medication within the 24 hours preceding the accident. If yes, identify the medication the medication and the condition for which it was taken;

Glucophage for diabetes (100mg/2 times per day in a.m. and p.m.)

(l) Whether you had taken any other drugs, within the 24 hours preceding the accident. If yes, identify the drugs so taken;

No.

(m) Whether you had consumed any alcoholic beverage within the 8 hours preceding the accident. If yes, state when, what type of alcoholic beverage, where you consumed it and how much you consumed.

No.

(n) Whether you are under the care of a physician, psychiatrist or psychologist at the time of the accident and, if so, the name and address of the physician, psychiatrist or psychologist or other mental health provider.

Kevin Kollman, M.D. *address*

(o) Whether or not you have ever been convicted of a crime of moral turpitude or crimen falsi, and if so, please state the county, court, term number and charges;

No.

(p) Whether you ever served in the Armed Forces. If so, state the date, branch, rank at discharge, any infirmities at discharge, any claims made and any benefits received for infirmities, and your Veteran's Administration Claim Number.

Mr. Bish served in the Army. He received a medical discharge for high blood pressure. Mr. Bish no longer has high blood pressure.

CIRCUMSTANCES SURROUNDING THE ACCIDENT

2. State the date, time and exact location of the accident.

The accident occurred on June 27, 2003, at approximately 1:45 p.m. on Route 53 in Morris Township, Pennsylvania.

3. With reference to the trip you were taking at the time of accident herein, state:

(a) Where it started;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(b) When it started;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(c) Where it was scheduled to end;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(d) The route followed to the accident scene and any stops made along the way;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(e) The purpose of the trip;

Picking up used auto parts.

4. Did you have passenger in your vehicle at the time of the accident? If so state:

No.

(a) Their names and addresses;

Not Applicable.

(b) Their relationship to you; and

Not Applicable.

(c) Where they were located in your vehicle at the time of the accident;

Not Applicable.

5. State as to the motor vehicle involved in the accident;

(a) The make, model and year;

Make: Chevrolet;

Model: S10; and

Year: 2001.

(b) The serial number;

1GCCS145O1K147119

(c) The mileage at the time of the accident;

Approximately 23,500 miles.

(d) Whether it had previously been in any accident, indicating the date thereof and the parts damaged;

No.

(e) The type of brakes, their condition and the date they were last repaired or adjusted;

Type: ABS brakes;

Condition: good; and

Date of Last Repair: unknown.

(f) Whether the horn was in operating condition and when it was last used before the accident;

Yes.

(g) Whether the windows were open or closed and whether you were able to see through them clearly;

Unknown; windows were clean.

6. As to the road on which your vehicle was being operated at the time of the accident, state:

(a) The type of road surface, i.e. concrete, blacktop, etc.;

Asphalt.

(b) The surface condition, i.e. dry, wet, muddy, etc.;

Dry.

same; (c) Whether there were any defects in the road. If so, describe the

Unknown. By way of further response, please refer to the police report attached to original Answers.

(d) Whether the road was a one-way or a two way street;

State Route 53 is a two way roadway.

(e) The number of lanes;

State Route 53 has two lanes.

(f) Whether the road was a divided highway;

Defendants object to this Interrogatory as vague as to the definition of "divided highway." Without waiving said objection, Defendants' answer is as follows:

Yes.

(g) Whether any buildings were located on either side of the road;

Unknown.

same; (h) Whether there was any road construction, and if so, describe the

No.

(i) The grade of the road;

Level.

(k) The lighting conditions at the time of the accident;

Day.

7. State:

(a) The weather conditions prevailing at the time of the accident;

Clear.

- (b) The exact intersection or highway where the accident occurred;

The motor vehicle accident occurred on Route 53 in Morris Township, Pennsylvania.

- (c) The position of all vehicles at the time of the accident;

Mr. Bish was traveling south on Route 53 and the Plaintiff was traveling north on Route 53.

- (d) The distance from you when you first observed the other vehicle and/or vehicles;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

- (e) When and where you applied your brakes;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

- (f) The distance traveled between the point when the brakes were applied and the point of impact;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

- (g) An estimate of the respective speed of the vehicles at the time of impact;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as

Exhibit A.

(h) The initial point of impact for each vehicle.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

8. Describe how the accident occurred, including the actions of the respective parties and particularly describe any action you took to avoid the accident.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

9. At what point in time did you first realize that the accident was going to occur?

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

10. State the name and address of the owner or owners of the motor vehicle you operated or occupied at the time of the accident.

Tri Mount, Inc., 903 North Front Street, Philipsburg, Pennsylvania, 16866.

11. State whether or not you were acting on behalf of you employer or in the course of your employment at the time of the accident referred to in the Complaint.

Defendants object to this Interrogatory as it seeks a legal conclusion. Without waiving said objection, Defendants' answer is as follows:

Yes.

12. Did you vehicle carry any cargo and/or loads? If so, describe:

(a) What the cargo or the load was; and

Used auto parts. The cargo weighed approximately 20 pounds.

(b) Its location in the vehicle.

The cargo was in the bed of the truck.

13. Do you wear glasses or contact lenses? If so, state:

Yes.

(a) Whether you were wearing them at the time of the accident;

Yes.

(b) As accurately as you can, the condition for which they were prescribed;

Nearsighted and farsighted.

(c) Your visual acuity without glasses; and

Unknown.

(d) Your visual acuity with glasses.

Unknown.

14. State:

(a) Whether there were any obstructions in your view when approaching the scene of the accident, and, if so, please describe each such obstruction in detail, giving its location with relation to the site of the accident;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(b) Whether at the time of the accident your vision was impaired or obscured in any manner, either from inside of the vehicle or from external

factors and, if so, in what manner your vision was impaired or obscured.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

15. State whether or not prior to the time of the accident you had traveled the road upon which the accident occurred. If so, please state the frequency and last time that you traveled the road prior to the accident.

Yes. Frequently.

16. Where were you looking just prior to the time of the accident?

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

17. State where the point of impact was, giving the distance in feet with reference to the nearest intersection and/or other established points.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

18. Describe the movement of your motor vehicle within the last 30 seconds immediately prior to the occurrence.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

19. State whether you gave any warning of your approach. If so, state in detail the nature of the said warning.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

20. Describe all physical evidence, including its location, which you observed at the scene of the accident after the collision, including but not limited to dirt, debris, etc.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

21. State whether any skid marks were made by any vehicle involved in the accident. If so, state as to each vehicle:

See, police report, attached to original Answers.

(a) The length and direction of the said skid marks;

See, police report, attached to original Answers.

(b) The point of beginning and ending of the said skid marks;

See, police report, attached to original Answers.

22. State the type and color of any traffic signal controlling the street on which your vehicle was traveling when you first noticed it and;

No traffic signal controlled the street in the area of the accident.

(a) The distance in feet the traffic light was from the vehicle at the time;

Not Applicable.

(b) Whether or not the signal had changed between the time you first observed it and the accident;

Not Applicable.

(c) If the light did change, from what color to what color did it change;

Not Applicable.

(d) The exact location of all traffic signals.

Not Applicable.

23. At or immediately following the time of the accident, was there any conversation relevant to the accident or injuries sustained which you engaged in or heard? If yes, state:

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(a) The identity of the speaker;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(b) The substance of what was said;

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

(c) The identity of all persons within hearing distance.

Unknown. Immediately following the accident, Mr. Bish was amnesiac to all events surrounding the accident. To date, he has no recollection of the accident due to the onset of memory loss. By way of further response, please see the medical records of Robert Bish, attached hereto as Exhibit A.

24. State how all the parties involved in the accident were removed from the accident, including the name, address, present whereabouts and job classification of all persons assisting in their removal.

Please see police report.

25. State whether the accident was caused by any broken, defective or unworkable device, or by the breaking, absence, misplacement or malfunction of any equipment, or of any similar condition. If so, state:

Unknown.

(a) The particular things involved and the precise nature of the defect;

Please see Answer to Interrogatory 25.

(b) When the defect first arose;

Please see Answer to Interrogatory 25.

(c) What caused the defect;

Please see Answer to Interrogatory 25.

(d) When you learned of the defect for the first time;

Please see Answer to Interrogatory 25.

(e) If the said defect existed prior to the accident state how long it existed prior thereto;

Please see Answer to Interrogatory 25.

(f) What, if anything, was done to remedy this defect after the accident?

Please see Answer to Interrogatory 25.

PROPERTY DAMAGE

26. State the condition of your vehicle at the time of the accident, describing specifically any damage which existed prior to the accident.


Defendants object to Interrogatory 26 as vague as to the definition of the term "condition" and irrelevant. Without waiving said objections, Defendants' answer is as follows:

None.

VERIFIED STATEMENT

I, James A. Naddeo, Esquire, being the attorney for Plaintiff, Harold J. Roos, Jr., am duly authorized to make this verified statement on plaintiff's behalf. I hereby verify that the statements set forth in the foregoing Motion in Limine are true and correct to the best of my information and belief.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.



James A. Naddeo, Esquire
Counsel for Plaintiff

Dated: October 25, 2006

BY THE COURT,

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants.

No. 05 - 357 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

DATED: November 1, 2006

FILED *Noce*
01110161
NOV 01 2006 

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a copy of the Order and Plaintiff's Second Motion Inlimine were served on the following and in the following manner on the 1st day of November, 2006:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

CH

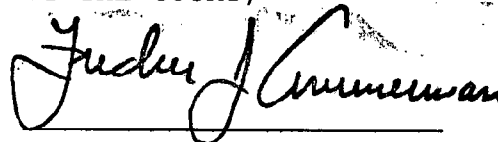
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR. :
VS. : NO. 05-357-CD
ROBERT W. BISH and :
TRIMOUNT, INC. :

O R D E R

AND NOW, this 9th day of November, 2006, following argument on the Plaintiff's Second Motion in Limine; with the Court taking into account the responses provided by the Defendant, Robert W. Bish, to interrogatories indicating that he has amnesia as to all events surrounding the accident in question, it is the ORDER of this Court that the Plaintiff's Second Motion in Limine be and is hereby granted to the extent that the Defendant, Robert W. Bish, is excluded from providing testimony regarding the circumstances of the automobile accident which occurred on June 27, 2003. In the event that the Defendant would regain his memory in a timely manner such that answers to discovery could be appropriately amended, the Court may, at some time in the future, reconsider the restriction.

BY THE COURT,



President Judge

FILED

NOV 15 2006

William A. Shaw
Prothonotary/Clerk of Courts

CLERK TO NANCY J.

VUGRINOVICH

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a copy of the Plaintiff's Mediation Statement was served on the following and in the following manner on the 9th day of March, 2007:

First-Class Mail, Postage Prepaid

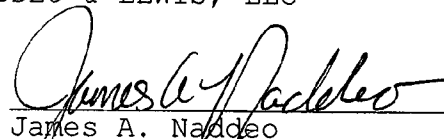
Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

and

John Noble, Esquire
Meyer, Darragh, Buckler, Bebenek & Eck, PPC
114 South Main Street
Greensburg, PA 15601

NADDEO & LEWIS, LLC

By


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

SUGGESTION OF DEATH

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. ZAKEN, ESQUIRE
PA. I.D. No. 83751

DANIELLE M. VUGRINOVICH, ESQUIRE
PA I.D. No. 88326

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

MAR 23 2007

m/12:35/ William A. Shaw
Prothonotary/Clerk of Courts
No CENS CORN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

SUGGESTION OF DEATH

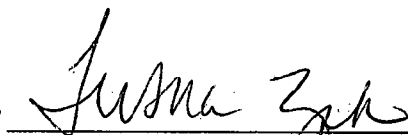
TO: PROTHONOTARY

The death of Robert W. Bish, a party to the above-referenced action, in November 2006, during the pendency of this action is noted upon the record.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Suggestion of Death** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 21 day of March, 2007:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Zaken
Trisha A. Zaken, Esquire
Danielle M. Vugrinovich, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants.

No. 05 - 357 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

DATED: April 24, 2007

FILED
01/05/07
APR 24 2007
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

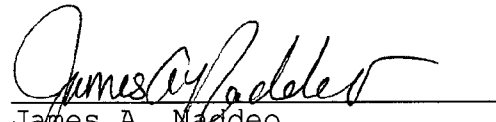
I, James A. Naddeo, Esquire, do hereby certify that a copy of the Plaintiff's Answers to Second Set of Supplemental Interrogatories and Request for Production of Documents was served on the following and in the following manner on the 24th day of April, 2007:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants.

No. 05 - 357 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

DATED: May 8, 2007

FILED No
0/3:26/30 CC
MAY 08 2007
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a copy of the Interrogatories Addressed to Defendant (Set Two) was served on the following and in the following manner on the 8th day of May, 2007:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

**NOTICE OF SERVICE OF ANSWERS
AND OBJECTIONS TO PLAINTIFF'S
EXPERT INTERROGATORIES**

Defendants.

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *no ce*
5/11/07
MAY 29 2007
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

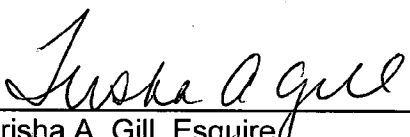
**NOTICE OF SERVICE OF ANSWERS AND OBJECTIONS TO
PLAINTIFF'S EXPERT INTERROGATORIES**

To: Prothonotary

The undersigned herein represents that Answers and Objections to Plaintiff's Expert Interrogatories were sent to James Naddeo, Esquire, on May 25, 2007

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By 
Trisha A. Gill, Esquire
Counsel for Defendants

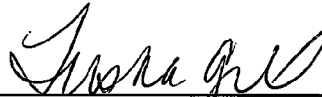
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Notice of Service of Answers and Objections to Plaintiff's Expert Interrogatories** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 25th day of May 2007.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Gill, Esquire
Counsel for Defendants

FILED
MAY 29 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants.

No. 05 - 357 - CD

Type of Pleading:

MOTION TO COMPEL

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

DATED: June 12, 2007

FILED
0/3:33/04
JUN 12 2007
Att'y Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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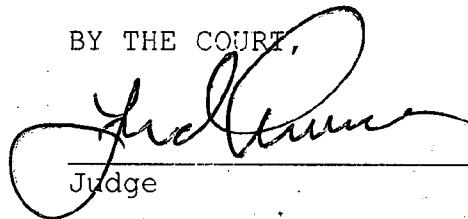
No. 05 - 357 - CD

RULE

AND NOW, this 14 day of June, 2007, upon
consideration Motion to Compel filed on behalf of Plaintiff, it is
hereby ORDERED that a Rule be granted upon the Defendants to show
cause why the relief requested should not be granted by Plaintiff
should not be granted.

Rule Returnable and argument thereon to be held the 9th of
July, 2007, at 10:00 A.M., in Courtroom 1 of the
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,


Judge

FILED ^{icc}
03:32/61 Atty Naddeo
JUN 15 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/15/07

☒ You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

FILED

JUN 15 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants..

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No. 05 - 357 - CD

MOTION TO COMPEL

NOW COMES THE PLAINTIFF, HAROLD J. ROOS, JR., and by and through his attorney, requests this Court to enter an Order under Pa.R.C.P. 4003.5(a)(2) directing defendants to provide answers to plaintiff's expert witness interrogatories and in support thereof avers as follows:

1. This action was commenced by plaintiff for injuries sustained in an automobile accident.

2. Upon the request of defendants, plaintiff was evaluated by Dr. John Perry who conducted an independent medical examination and authored a report based upon the same.

3. On or about May 8, 2007, plaintiff served expert interrogatories upon defendants.

4. Defendants have objected to the majority of plaintiff's expert interrogatories and are thereby refusing to answer the same. A true and correct copy of Defendants' Answers and

Objections to Plaintiff's Expert Interrogatories is attached hereto as Exhibit "A."

5. That defendants' objections are based upon the recent Pennsylvania Supreme Court decision of Cooper v. Schoffstall, 588 Pa. 505 (Pa. 2006).

6. That plaintiff has reasonable cause to show that defendant's expert Dr. John Perry has entered the professional witness category.

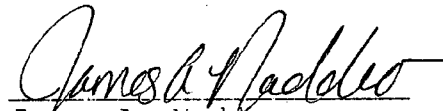
7. That pursuant to the Cooper v. Schoffstall decision plaintiff is entitled to have the expert interrogatories answered.

WHEREFORE, Plaintiff HAROLD J. ROOS, JR., respectfully requests your Honorable Court issue a rule upon defendants to show cause why this Court should not enter an order dismissing defendants' objections to plaintiff's expert interrogatories and direct defendants to answer the same.

Respectfully Submitted,

NADDEO & LEWIS, LLC

By



James A. Naddeo

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

FILED 29 2007

**DEFENDANTS' ANSWERS TO
PLAINTIFF'S INTERROGATORIES
(SET TWO)**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. Gill, ESQUIRE
PA. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

Exhibit "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

Defendants' Answers to Plaintiff's Interrogatories (Set Two)

To: Robert W. Bish and TriMount, Inc.
c/o Trisha A. Zaken, Esquire
Walsh, Collis & Blackmer, LLC
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

Demand is hereby made that you answer the following interrogatories under oath or verification pursuant to the Pa., R.C.P., No. 4005 and 4006 within thirty (30) days from service hereof. The answering party is under a duty to supplement their responses under the following conditions:

The party must supplement his response with respect to any question, directly addressed to the identity and location of persons having knowledge of discoverable matters and the identity of each person expected to be called as an expert witness at trial.

A party or expert witness must amend a prior response if he obtains information upon the basis of which:

- (a) He knows that the response was incorrect when made; or,
- (b) He knows that the response, though correct when made, is no longer true.

I. DEFINITIONS

The following definitions are usage that applies to all of the Interrogatories contained herein:

- A. The singular and masculine form of any noun or pronoun shall embrace, and be read and applied as, the plural or feminine or neuter as circumstances may make appropriate.
- B. "Document" refers to all types of written, recorded or graphic matter, however produced or reproduced.
- C. "Person" refers to any person, firm, corporation, partnership, proprietorship, association or agency.
- D. "Identify" when used:
 - 1. In reference to a person, means to state the full name, full title, last known resident address, last known business address and last known occupation and business affiliation.
 - 2. In reference to documents, means to state with respect to each and every document, the type of document, author's name, recipient's name, date of preparation, present or last known custodian and location, and title and identification code or number of the file in which the document is kept.

II. INTERROGATORIES

1. Please describe the type and amount of compensation that Dr. John F. Perry (your expert and IME physician) has received and is expected to receive from you for his services in this case.

ANSWER: Dr. John Perry has received \$1,746 for his services in this case to date. It is expected he will provide deposition testimony for this matter at an estimate of \$3,450.00

2. Please describe the character of your expert witness', John F. Perry's, litigation-related activities and so state:

A. What percentage of his medical practice and work is devoted to patients involved in litigation? Please state this percentage for each of the past three years (2006, 2005, 2004).

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

B. What percentage of your answer to question 2A above, that is of the litigation cases/patients Dr. Perry is treating, what percentage is he serving as an independent medical examiner (IME) for defendants? Please so state the same for each of the past three years (2006, 2005, 2004).

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- C. What percentage of your answer to question 2B above, that is of the litigation cases/patients Dr. Perry is serving as an IME physician, what percentage are on behalf of the defendant and/or the insurer represented in this particular case? Please so state for the same for each of the past three years (2006, 2005, 2004).

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- D. Please state the approximate and total amount of income each year, for the past three years (2006, 2005, 2004), garnered from the performance of serving as an expert (in any capacity) in litigation cases.

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- E. Please state the approximate and total amount of income each year, for the past three years (2006, 2005, 2004), garnered from the performance of serving as an expert (in any capacity) in litigation cases where Dr. Perry's performance was on behalf of a defendant or defendants.

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- F. Please state the approximate and total amount of income each year, for the past three years (2006, 2005, 2004), garnered from the performance of serving as an expert (in any capacity) in litigation cases where Dr. Perry's performance was on behalf of Walsh, Collis & Blackmer, P.C.

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information. Without waiving objection, see Answer to Interrogatory Number 1.

- G. Please state the total number of independent medical examinations performed for defendants (i.e. any defendant) each year by Dr. Perry for each of the past three years (2006, 2005, 2004).

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- H. Please state the total number of independent medical examinations performed for the specific defendant/insurer in this particular case by Dr. Perry for each of the past three years (2006, 2005, 2004).

ANSWER: Dr. Perry examined Plaintiff Harold Roos one time on June 16, 2006 for this Defendant. This Defendant objects to any inquiry directed to its insurance carrier as it is irrelevant, entirely burdensome and meant solely to harass and annoy the Defendant. By way of further objection, this request is outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- I. Please state the total number of independent medical examinations performed by Dr. Perry for the Walsh, Collis & Blackmer, P.C. law firm for each of the past three years (2006, 2005, 2004).

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information. Without waiving objection, one (Harold Roos).

- J. Please state the total number of instances that Dr. Perry has provided testimony on behalf of a defendant or defendants (i.e. any defendant) for each of the past three years (2006, 2005, 2004).

ANSWER: Objection. Overly broad and burdensome and outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- K. Please state the total number of instances that Dr. Perry has provided testimony on behalf of the defendant or insurer involved in this particular case for each of the past three years (2006, 2005, 2004).

ANSWER: Dr. Perry has never been retained by this Defendant other than in this instant suit. Defendant objects to any inquiry directed to its insurer as it is irrelevant, entirely overbroad, burdensome and meant solely to harass and annoy this Defendant. By way of further objection, this request is outside the scope of discovery pursuant to Pa. R.C.P. 4003.4(a)(2) and Cooper v. Schoffstall, 588 Pa. 505, 905 A.2d 482, in that Plaintiff has failed to show cause to support this request for information.

- L. Please state the total number of instances that Dr. Perry has provided testimony on behalf of Walsh, Collis & Blackmer, P.C. law firm for each of the past three years (2006, 2005, 2004).

ANSWER: Objection. Overly broad, burdensome and beyond the scope of discovery. See Pa. R.C.P. 4003.5. Without waiving objection, none.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Gill
Trisha A. Gill, Esquire
Counsel for Defendants

VERIFIED STATEMENT

I, **Trisha A. Gill, Esquire**, being the attorney for **Defendants** in the within action, am duly authorized to make this Verified Statement on the Defendants' behalf. I hereby verify that the statements set forth in the foregoing **Defendants' Answers to Plaintiff's Interrogatories (Set Two)** are true and correct to the best of my information and belief based upon knowledge obtained from the Defendants.

I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsifications to authorities.

DATED: May 25, 2007

Trisha A. Gill
Trisha A. Gill, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants.

No. 05 - 357 - CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

DATED: June 18, 2007

FILED

JUN 18 2007

0/3:45/4
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

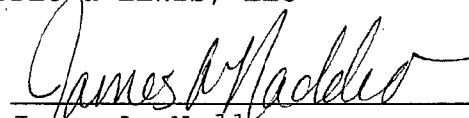
I, James A. Naddeo, Esquire, do hereby certify that a
copy of the Motion to Compel was served on the following and in
the following manner on the 18th day of June, 2007:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By



James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S MOTION TO COMPEL**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
PA. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *NCC*
11/14/07
JUN 25 2007 *CR*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO COMPEL

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, PC, and Trisha A. Gill, Esquire, and file the following Response to Plaintiff's Motion to Compel and aver as follows:

1. On or about May 9, 2005, Plaintiff filed this civil action against Defendants in the Court of Common Pleas of Clearfield County, Pennsylvania.
2. This suit arises out of a motor vehicle accident that occurred on or about June 27, 2003, on State Route 53 in Morris Township, Clearfield County, Pennsylvania.
4. As a result of this accident, Plaintiff claims the following injuries:
 - a. abrasions to the chest,
 - b. large anterior contusions to both knees,
 - c. exacerbation of pre-existing knee replacements,
 - d. lumbar strain,
 - e. exacerbation of pre-existing degenerative changes of the lumbar spine,
 - f. bulging discs of the lumbar spine,
 - g. exacerbation of pre-existing degenerative changes of the cervical spine; and,
 - h. bulging discs of the cervical spine.

5. Plaintiff is seeking damages for past, present, and future pain and suffering; past, present, and future privation and inconvenience; future medical expenses; lost wages; impairment of earning power; and all other damages permitted by the law.

6. On June 16, 2006, Plaintiff submitted to an independent medical examination with John Perry, M.D. at Defendants' request, and Dr. Perry issued a report based upon his exam.

7. Subsequently on May 8, 2007, Plaintiff served Expert Interrogatories to Defendants to which Defendants responded on or May 25, 2007. See Exhibit A attached to Plaintiff's Motion to Compel.

8. These Defendants answered the Interrogatories pertaining to:

1. The amount of compensation he received and is expected to receive from Defendants in this case;
2. The amount of income he has received for his work for Defendants' law firm; and,
3. The number of independent medical examinations performed for Defendants' law firm.

See Exhibit A attached to Plaintiff's Motion to Compel, Interrogatory Nos. 1, 2(F) and 2(I).

9. Through his Interrogatories, Plaintiff is seeking broad information regarding Dr. Perry's expert-generated income and activities beyond what was provided to these Defendants. See Exhibit A attached to Plaintiff's Motion to Compel.

10. This information is protected from discovery pursuant to Cooper v. Schoffstall, 905 A.2d 482, 588 Pa. 505 (2006), a Supreme Court case which held that the "threshold showing to establish cause for supplemental discovery related to

potential favoritism of a non-party expert witness retained for trial preparation is of reasonable grounds to believe that the witness may have entered the professional witness category." Id. at 494-94, 588 Pa. at 524-25. **See Exhibit A, Cooper case attached hereto.**

11. "In other words, the proponent of the discovery should demonstrate a significant pattern of compensation that would support a reasonable inference that the witness might color, shade or slant his testimony in light of the substantial financial incentives." Id.

12. Although Plaintiff states in his Motion that he "has reasonable cause to show that defendant's expert Dr. John Perry has entered the professional witness category," he has not provided to Defendants the basis of his reasonable cause and has not offered any evidence that would support a reasonable inference of prejudicial or biased testimony, as Cooper mandates.

13. Defendants advised Plaintiff they would re-evaluate his requests if he provided information supporting his reasonable cause, but he has failed to do so and improperly responded by filing this Motion. **See Exhibit B, May 25, 2007 Correspondence.**

14. Forcing Dr. Cooper to compile this information will pose a huge burden on him and will further invade his privacy without just cause.

15. Unless and until Plaintiff comes forward with evidence to support his "reasonable cause" of Dr. Perry's purported "professional witness" status, Defendants aver that pursuant to Cooper, there is no basis to compel production of the requested information.

WHEREFORE, Defendants respectfully request this Honorable Court deny
Plaintiff's Motion to Compel.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Gill
Trisha A. Gill, Esquire
Counsel for Defendants

Westlaw.

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H

Cooper v. Schoffstall
Pa., 2006.

Supreme Court of Pennsylvania.
Barbara A. COOPER
v.
Loretta SCHOFFSTALL
Appeal of Perry A. Eagle, M.D.
Argued May 16, 2005.
Decided Sept. 7, 2006.

Background: Pedestrian, who was struck by automobile, brought personal injury action against driver. After pedestrian served subpoena upon medical expert retained by driver, requiring production of financial records, medical expert and driver filed motions seeking protective orders. The Court of Common Pleas, Dauphin County, Civil Division, No. 5932-CV-2001-CV, Richard A. Lewis, J., Specially Presiding, denied motions. Medical expert appealed. The Superior Court, No. 1164 MDA 2003, affirmed. Medical expert appealed.

Holdings: The Supreme Court, No. 212 MAP 2004, Saylor, J., held that:

- (1) appropriate threshold showing to establish cause for supplemental discovery related to potential favoritism of a non-party expert witness is of reasonable grounds to believe that the witness may have entered the professional witness category;
- (2) cause was established for supplemental discovery related to potential favoritism of medical expert retained by defense;
- (3) upon the showing of cause for supplemental discovery, the proponent of the discovery may, through a deposition by written interrogatories, be permitted to make certain inquiries; and
- (4) it was unduly burdensome to require medical

expert retained by defense to produce copies of federal form 1099 tax records.

Orders of Court of Common Pleas and Superior Court vacated.

Newman, J., concurred and filed opinion.
West Headnotes

[1] Appeal and Error 30 ⚡842(1)

30 Appeal and Error

30XVI Review

30XVI(A) Scope, Standards, and Extent, in General

30k838 Questions Considered

30k842 Review Dependent on Whether Questions Are of Law or of Fact

30k842(1) k. In General. Most

Cited Cases

To degree that matter involves an interpretation of Supreme Court's rules, Supreme Court's review is plenary.

[2] Appeal and Error 30 ⚡946

30 Appeal and Error

30XVI Review

30XVI(H) Discretion of Lower Court

30k944 Power to Review

30k946 k. Abuse of Discretion. Most Cited Cases

Within the ambit of the discretionary authority allocated by Supreme Court rules to the trial courts, Supreme Court reviews for abuse of discretion.

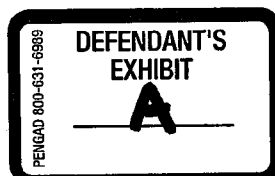
[3] Pretrial Procedure 307A ⚡23

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(A) Discovery in General

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307Ak23 k. Persons Subject. Most Cited Cases

Rule of civil procedure governing discovery of expert testimony restricts the scope of all discovery from non-party witnesses retained as experts in trial preparation, not just the discovery of facts and opinions acquired or divulged in anticipation of litigation; inquiries into collateral information must be channeled through the rule's "cause shown" criterion. Rules Civ.Proc., Rules 4003.5 et seq., 4003.5(a)(2), 42 Pa.C.S.A.

[4] Pretrial Procedure 307A ⚡32

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(A) Discovery in General

307Ak32 k. Probable Admissibility at Trial. Most Cited Cases

Adherence to the general standard pertaining to discovery, namely, the requirement that the request be reasonably calculated to lead to discovery of admissible evidence, is an essential prerequisite to establishing "cause shown" for supplemental discovery, under rule of civil procedure governing discovery of expert testimony. Rules Civ.Proc., Rules 4003.1(a), 4003.5(a)(2), 42 Pa.C.S.A.

[5] Pretrial Procedure 307A ⚡23

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(A) Discovery in General

307Ak23 k. Persons Subject. Most Cited Cases

Appropriate threshold showing to establish cause for supplemental discovery related to potential favoritism of a non-party expert witness retained for trial preparation is of reasonable grounds to believe that the witness may have entered the professional witness category; in other words, the proponent of the discovery should demonstrate a significant pattern of compensation that would support a reasonable inference that the witness might color, shade, or slant his testimony in light of the substantial financial incentives. Rules Civ.Proc., Rule 4003.5(a)(2), 42 Pa.C.S.A.

[6] Pretrial Procedure 307A ⚡23

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(A) Discovery in General

307Ak23 k. Persons Subject. Most Cited Cases

Cause was established for supplemental discovery related to potential favoritism of non-party expert medical witness retained for trial preparation by defense in personal injury action, where expert had performed 200 or more independent medical examinations in some recent years. Rules Civ.Proc., Rule 4003.5(a)(2), 42 Pa.C.S.A.

[7] Pretrial Procedure 307A ⚡97

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(C) Discovery Depositions

307AII(C)1 In General

307Ak96 Persons Who May Be Examined

307Ak97 k. Non-Party Witnesses in General; Experts. Most Cited Cases

Pretrial Procedure 307A ⚡155

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(C) Discovery Depositions

307AII(C)3 Examination in General

307Ak155 k. Written Questions, Depositions On. Most Cited Cases

Pretrial Procedure 307A ⚡171

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(C) Discovery Depositions

307AII(C)4 Scope of Examination

307Ak171 k. In General. Most Cited Cases

Upon the showing of cause for supplemental discovery related to potential favoritism of a non-party expert witness retained for trial preparation, the proponent of the discovery may, through a deposition by written interrogatories, and subject to the trial court's exercise of its sound discretion, be permitted to inquire as to the following: the approximate amount of compensation

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received and expected in the pending case; the character of the witnesses' litigation-related activities, and, in particular, the approximate percentage devoted to specific types of litigation and/or work on behalf of a particular litigant, class of litigant, attorney, and/or attorney organization; the number of examinations, investigations, or inquiries performed in a given year, for up to the past three years; the number of instances in which the witness has provided testimony within the same period; the approximate portion of the witness's overall professional work devoted to litigation-related services; and the approximate amount of income each year, for up to the past three years, garnered from the performance of such services. Rules Civ.Proc., Rule 4003.5(a)(2), 42 Pa.C.S.A.

[8] Pretrial Procedure 307A ⚡178

307A Pretrial Procedure

307AII Depositions and Discovery

307AII(C) Discovery Depositions

307AII(C)4 Scope of Examination

307Ak178 k. Documents or Tangible

Things, Examination Involving. Most Cited Cases

It was unduly burdensome to require non-party expert medical witness retained by defense in personal injury action to produce copies of federal form 1099 tax records associated with his undertaking "defense-related reports, examinations and depositions," which records plaintiff sought in order to facilitate an inquiry into potential favoritism arising from the regular acceptance of compensation for medicolegal work. Rules Civ.Proc., Rule 4003.5(a)(2), 42 Pa.C.S.A.

Curtis N. Stambaugh, Esq., Susan V. Metcalfe, Esq., David E. Lehman, Esq., Harrisburg, for Perry A. Eagle, M.D.

David B. Dowling, Esq., James J. Jarecki, Esq., Harrisburg, for Barbara A. Cooper.

John Andrew Statler, Esq., Thomas Edward Brenner, Esq., Heather L. Paterno, Esq., Harrisburg, for Loretta Schoffstall.

Scott B. Cooper, Esq., James Richard Ronca, Esq., Harrisburg, for PA Trial Lawyers Association.

Before: CAPPY, C.J., and CASTILLE, NIGRO, NEWMAN, SAYLOR, EAKIN and BAER, JJ.

*508 OPINION

Justice SAYLOR.^{FN1}

FN1. This case was reassigned to this author.

This appeal concerns the availability, in a civil case, of discovery of financial records of a non-party expert medical witness to facilitate an inquiry into potential bias.

In December 2001, Barbara A. Cooper commenced a civil action against Loretta Schoffstall arising out of a pedestrian/automobile accident. On the request of Ms. Schoffstall and/or her liability insurer, an independent medical examination of Ms. **485 Cooper was performed by Appellant, orthopedic surgeon Perry A. Eagle, M.D.

Apparently in view of Dr. Eagle's known, extensive participation in defense medical examinations in the past, Ms. Cooper sought discovery of certain of his financial records pertaining to these activities, indicating that the effort was intended to probe potential favoritism toward the defense or, more generally, the insurance industry. *See generally* Pa.R.Civ.P. Nos. 4009.21-4009.27 (prescribing the procedure for obtaining production of documents from a non-party). Over Ms. Schoffstall's opposition, ultimately Ms. Cooper was successful in serving a subpoena upon Dr. Eagle requiring the production of copies of federal form 1099 tax records associated*509 with his performance of services as an independent contractor for calendar years 1999, 2000, and 2001, in undertaking "defense-related reports, examinations and depositions." ^{FN2} Dr. Eagle and Ms. Schoffstall responded with motions seeking protective orders. Dr. Eagle contended, *inter alia*, that, to the extent that the discovery demand sought information related to payments made by other persons or firms entirely unrelated to the parties, counsel, or the insurer involved in the present case, it exceeded the bounds of permissible discovery as constrained by *Zamsky v. Public Parking Auth. of Pittsburgh*, 378 Pa. 38, 105 A.2d 335 (1954) (holding, in a condemnation case, that it was error to question the

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condemning authority's expert witness concerning fees that he had received over a five-year period for services rendered in connection with the acquisition of other parcels), and *Mohn v. Hahnemann Med. College & Hosp. of Phila.*, 357 Pa.Super. 173, 515 A.2d 920 (1986) (holding that a trial court committed reversible error in permitting cross-examination of a defense medical witness regarding his receipt of fees for medicolegal services other than in the litigation under review). See Motion of Perry A. Eagle, M.D. for Protective Order, at 5 ("Discovery into other professional work performed in other matters involving entirely different parties and counsel surely extends into such collateral territory that no reasoned basis exists for permitting the discovery excursions sought by this Plaintiff."). To the degree that the discovery would be permitted, Dr. Eagle sought confidential treatment of his financial information.

FN2. Federal form 1099 reports miscellaneous income for individuals and entities that received payment of at least \$600 for non-employee services during a given calendar year.

At a conference before the common pleas court, per the Honorable Richard A. Lewis, Ms. Cooper's counsel produced a collection of excerpts from the records of a number of prior civil actions in which Dr. Eagle conducted independent medical examinations on the request of the defense and/or testified on behalf of the defendant. These documents were offered to support Ms. Cooper's contention that Dr. Eagle performed *510 abundant defense medical examinations (on the order of 200 to 400 in some recent years), derived substantial income from this work, and issued written reports containing repetitive, predictable, defense-favored observations and conclusions. Judge Lewis denied the motions for protective order, but separately entered an order requiring confidential treatment of financial information to be produced by Dr. Eagle.

Upon the filing by Dr. Eagle of a notice of appeal, FN3 Judge Lewis issued a memorandum opinion setting forth his reasoning, **486 pursuant to Rule of Appellate Procedure 1925(a). See *Cooper v.*

Schoffstall, No. 5932 CV 2001, *slip op.* at 5-6 (C.P. Dauphin Dec. 15, 2003). As background, he explained that a party generally is entitled to discovery regarding any matter, not privileged, that is relevant to the litigation's subject matter and will substantially aid in advancing claims or defenses. See Pa.R.Civ.P. No. 4003.1. Judge Lewis also indicated, however, that Pennsylvania Rule of Civil Procedure 4003.5 ("Discovery of Expert Testimony. Trial Preparation Material") generally limits the scope of expert discovery to the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for opinions. Nevertheless, he reasoned that a court may permit additional discovery from an expert witness under an express exception to Rule 4003.5's general rule, "[u]pon cause shown." See Pa.R.Civ.P. No. 4003.5(a)(2).

FN3. Although the appeal was interlocutory relative to the underlying civil action, Dr. Eagle proceeded as of right under the collateral order doctrine. See *Ben v. Schwartz*, 556 Pa. 475, 481-83, 729 A.2d 547, 550-52 (1999).

Judge Lewis was persuaded that Ms. Cooper had demonstrated cause to support directed discovery of the limited financial records within the scope of the subpoena, since the documents might be relevant to show bias. In this regard, he relied upon Ms. Cooper's informal submission as demonstrating that Dr. Eagle performs defense medical examinations, prepares written reports, and testifies at court proceedings with "high frequency." *Id.* at 6. Referencing a passage from *511 *Brady v. Ballay, Thornton, Maloney Med. Assoc., Inc.*, 704 A.2d 1076 (Pa.Super.1997), for the proposition that a party may impeach an expert witness by demonstrating partiality, Judge Lewis reasoned that, "since it is proper to show that an expert witness has a bias in favor of a specific party, it is possible to show that an expert has a bias in favor of a class of parties." *Cooper*, No. 5932 CV 2001, *slip op.* at 6. Additionally, he observed that discovery is tethered more closely to the subject matter of the litigation than it is to the question of admissibility at trial. Accord *George v. Schirra*, 814 A.2d 202,

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205 (Pa.Super.2002) (“ [T]he relevancy standard during discovery is necessarily broader than it is for admission at trial.”). Judge Lewis also was not persuaded by arguments advanced by Dr. Eagle that the discovery that he had approved was burdensome, harassing, and annoying, or would have a chilling effect on doctors’ willingness to perform independent medical examinations. Finally, he referenced decisions of other courts that he viewed as being consistent with his approach. See *Cooper*, No. 5932 CV 2001, *slip op.* at 4-6 (citing *Kogod v. Spangler*, No. 1:CV-97-0608, *slip op.* (M.D.Pa. Dec. 17, 1997), and *Clifford v. Leonardi*, 99 CV 4236, *slip op.* (C.P. Lackawanna Oct. 3, 2002)).

Dr. Eagle sought and obtained from Judge Lewis a stay pending appeal relative to enforcement of subpoena.

A three-judge panel of the Superior Court affirmed in a memorandum opinion, finding that Judge Lewis properly exercised his discretion in directing the production of 1099 forms received by Dr. Eagle. See *Cooper v. Schoffstall*, No. 1164 MDA 2003, *slip op.*, 2004 WL 1969347 (Pa.Super. July 14, 2004). The panel’s reasoning, however, departed in material respects from Judge Lewis’s approach. In particular, whereas Judge Lewis read Rule 4003.5 as circumscribing all discovery from experts, the panel indicated that Rule 4003.5 addresses only facts and opinions acquired or divulged in anticipation of litigation and is not applicable to inquiries into potential bias on the part of expert witnesses. See *id.* at 4, 2004 WL 1969347, at *2. Rather, the panel indicated, discovery of information of this nature falls within the broad, general scope of discovery under Rule 4003.1. See *id.*

****487 *512** Further, the Superior Court panel rejected Dr. Eagle’s contention that, under the *Zamsky* and *Mohn* decisions, an expert may not be examined at trial concerning payments received from sources other than the parties themselves. In this regard, the Superior Court referenced, *inter alia*, *Spino v. John S. Tilley Ladder Co.*, 448 Pa.Super. 327, 671 A.2d 726, 738 (1996) (“A party is entitled to cross-examine an expert witness to

explore the credibility of the witness and to inquire into any potential bias, interest or relationship which could [a]ffect the testimony of the witness.”), *aff’d on other grounds*, 548 Pa. 286, 696 A.2d 1169 (1997), and *Coward v. Owens-Corning Fiberglas Corp.*, 729 A.2d 614 (Pa.Super.1999) (approving the allowance of cross-examination of an asbestos defendant’s expert witness concerning the amount of money that he had earned from any asbestos manufacturer over the course of the prior twenty years).^{FN4} THE COURT ALSO SURVEYED several decisions from other jurisdictions, including *Wroblewski v. Nora de Lara*, 353 Md. 509, 727 A.2d 930, 938 (1999) (“[I]t is generally appropriate for a party to inquire whether a witness offered as an expert in a particular field earns a significant portion or amount of income from applying that expertise in a forensic setting.”), *Metropolitan Property and Cas. Ins. Co. v. Overstreet*, 103 S.W.3d 31, 39-40 (Ky.2003) (“A jury could reasonably believe that a physician who derives a substantial percentage of his annual income from [defense medical] examinations, potentially earning hundreds of thousands of dollars every year from such examinations alone, might be tempted to slant his testimony to suit his employer.”), *Trower v. Jones*, 121 Ill.2d 211, 117 Ill.Dec. 136, 520 N.E.2d 297, 300 (1988) (finding it proper to inquire how much an expert medical witness earned annually for litigation services), and *Trend South, Inc. v. Antomarchy*, 623 So.2d 815, 816 (Fla.Dist.Ct.App.1993) (“[I]nformation regarding income generated by a physician’s performance of independent medical examinations for insurance companies and law firms is relevant and discoverable*513 to prove potential bias.”). Additionally, the Superior Court noted that the Federal Rules of Civil Procedure provide for disclosure by an expert of any other cases in which the witness has testified as an expert by trial or deposition within the preceding four years. See Fed.R.Civ.P. 26(a)(2)(B).

FN4. Although *Coward* was accepted for this Court’s review, see *Coward v. Owens-Corning Fiberglas Corp.*, 560 Pa. 705, 743 A.2d 920 (1999) (*per curiam*), the appeal was subsequently stayed in the

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wake of federal bankruptcy proceedings, and the matter was later closed.

The panel acknowledged that a legitimate concern arose with regard to the intrusiveness of the discovery of personal financial records. See *Cooper*, No. 1164 MDA 2003, *slip op.* at 11, 2004 WL 1969347, at *6 (“We recognize that zealous counsel cannot be permitted to embark upon an intrusive discovery campaign directed against an expert.”). However, the court indicated that, under the rules, Pennsylvania trial courts are equipped to prevent abuses, quoting reasoning from *State ex rel. Creighton v. Jackson*, 879 S.W.2d 639 (Mo.App.1994), as follows:

The trial court should, of course, restrict discovery so that it is no more intrusive than necessary. Counsel should never be permitted to harass, badger and humiliate the proposed witness with inquiries not strictly necessary to the discovery of matters relevant to professional objectivity. The privacy of the expert as to personal finances, professional associations, and patient/clients should be respected and should be invaded only as necessary to insure the honesty and accountability**488 of the expert in responding to legitimate inquiries. It must also be recognized, however, that a venal expert witness could not be expected to fully answer inquiries as to which the witness is not required to produce documentation. A delicate balancing of privacy interests against the need for accountability therefore becomes the responsibility of the trial court.

Id. at 643 (quoting *State ex rel. Lichtor v. Clark*, 845 S.W.2d 55, 65 (Mo.App.1992)).

[1][2] Soon after the decision in *Cooper*, a different panel of the Superior Court issued a decision approving similar discovery from Dr. Eagle in another case. See *J.S. v. Whetzel*, 860 A.2d 1112 (Pa.Super.2004). We allowed appeal in the *Cooper* case to address the discovery issue. To the degree that the matter involves an interpretation of this Court's rules, *514 our review is plenary. Within the ambit of the discretionary authority allocated by the rules to the trial courts, we review for abuse of discretion.

Presently, Dr. Eagle maintains that the discovery sought by Ms. Cooper is beyond that permitted of an expert witness. In this regard, he supports Judge Lewis's view that the restrictive terms of Rule 4003.5 control, describing the position that any information outside the scope of Rule 4003.5 falls back into the liberal sweep of Rule 4003.1 as untenable bootstrapping.^{FN5} According to Dr. Eagle, the approach endorsed by the Superior Court and Ms. Cooper would authorize litigants, without seeking leave of court or paying expert fees, to freely depose an opposing party's expert witness on virtually any subject except the one most central to the litigation (the expert's opinion on the facts of the case). *Accord Kern v. Chambersburg Hosp.*, 9 Franklin 69, 72 (1986) (“If this were true, almost any conceivable information concerning an expert would be discoverable. This belies the intent of Rule 4003.5 which is to limit Rule 4003.1.”); see also *Alston v. Outboard Marine Corp.*, 12 Pa. D. & C.4th 297, 302-03 (1991). He urges that this cannot have been this Court's intention in promulgating Rule 4003.5. See generally Pa.R.Civ.P. No. 127 (delineating proper considerations for interpreting rules when the text is not explicit, including, *inter alia*, the occasion and necessity for the rule, the object to be attained, and the consequences of a particular interpretation). Along these lines, Dr. Eagle also highlights that Judge Lewis's approach on this aspect has been the prevailing one in the Pennsylvania trial courts.^{FN6}

FN5. While acknowledging that, generally, Rule 4003.1 provides for liberal discovery of “any matter, not privileged, which is relevant to the subject matter involved in the pending action,” Pa.R.Civ.P. No. 4003.1, Dr. Eagle highlights that the rule specifically states that it is “subject to the provisions of Rules 4003.2 to 4003.5 inclusive,” which place limits on the scope of discovery available to litigants. *Id.*

FN6. See Brief for Appellant at 11 (citing, *inter alia*, *Robbins v. Rahimzadek*, 54 Pa. D. & C.4th 221, 223 (2001) (“Clearly such discovery [of financial information regarding an opposing party's expert

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witness] would not be permitted absent an order of court for 'cause shown' pursuant to Pa.R.C.P. 4003.5(a)(2)."), *Monteiro v. Dow Chem.*, 19 Phila.Co.Rptr. 221, 223, 1989 WL 817119 (1989) ("The only discovery that is allowed as a matter of right are interrogatories, and these are expressly limited to the discrete subjects described in Rules 4003.5(a)(1)(a) and (b).

Supplemental discovery from an expert is only available by stipulation between the parties, or after a successful application to a judge who must be satisfied that there is 'cause shown.' "); *Kern*, 9 Franklin at 72 (explaining that "the court finds it difficult to believe that the drafters [of Rule 4003.5] intended to encourage parties to slog through a morass of prior expert testimony, and to delve into the vast pool of authorities that they have been exposed to, all for the sake of impeachment"), and *Benson v. Dörko*, 35 Cumberland L.J. 231, 235 (1984) ("If the Supreme Court had wanted the liberal discovery provisions in Rule 4003.1 to have applied to experts they would not have made that Rule subject to the limitations in Rule 4003.5.")).

****489 *515** As to the cause criterion, Dr. Eagle recognizes that neither the Rules of Civil Procedure nor the decisional law specifies a particular test for determining cause supporting the discovery of financial information from an expert witness. In addressing this void, he suggests that the Court should adopt an approach that centers the litigation on the main issues by limiting forays into collateral impeachment avenues,^{FN7} and that affords due and ample respect to the privacy interests of expert witnesses in personal financial information. As to the privacy concern, Dr. Eagle references general commentary from the federal courts, *see, e.g., Fraternal Order of Police v. City of Philadelphia*, 812 F.2d 105, 109, 115 (3d Cir.1987) (observing that "public disclosure of financial information may be personally embarrassing and highly intrusive"), as well as rulings on discovery motions seeking tax records recognizing a qualified privilege and imposing high standards of relevancy before parties

will be ordered to produce such records. *See Eastern Auto Distribs., Inc. v. Peugeot Motors of Am., Inc.*, 96 F.R.D. 147, 148-49 (E.D.Va.1982); *Mitsui & Co. v. Puerto Rico Water Res. Auth.*, 79 F.R.D. 72, 80 (D.Puerto Rico 1978).

FN7. *Accord Jones v. Faust*, 852 A.2d 1201, 1206 (Pa.Super.2004) (holding that expert witnesses' reports from independent medical examinations over the preceding year were not discoverable, because "the information sought is for impeachment purposes, an objective which could be accomplished by other, less intrusive, means, e.g., the contrary testimony of another physician").

Further, Dr. Eagle contends that, under the *Zamsky* and *Mohn* decisions, the financial affairs of an expert witness (other than those bearing a substantially direct connection ***516** with discrete court proceedings) are beyond the scope of available cross-examination at trial, which Dr. Eagle argues is limited to aspects of the witness's financial interest that are demonstrably probative of any bias that he may harbor in favor of the law firm retaining him.^{FN8} Dr. Eagle maintains that this approach is also sensible because it prevents matters relating to insurance from surfacing before juries, and it obviates any need for burdensome efforts to align practice records with tax records.^{FN9} Dr. Eagle also posits that ****490** the purpose for which Ms. Cooper seeks his tax records, impeachment, can be accomplished through less intrusive and burdensome means, and that a holding allowing discovery in this case would establish a categorical rule permitting collateral discovery in every case. *See* Brief for Appellant at 21-22 ("Plaintiff has not shown any cause for the supplemental discovery sought; and no cause exists in this case which would not also apply to independent medical evaluations in any other personal injury action. Therefore, directing Dr. Eagle to produce his ***517** 1099 forms would be tantamount to rewriting the Rules of Civil Procedure pertaining to expert discovery."); *accord Robbins*, 54 Pa. D. & C.4th at 224 ("If I were to allow statistical discovery, I would not be

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deciding 'cause shown' in a particular case, but rather would be rewriting the rule for every case.").

FN8. See *Zamsky*, 378 Pa. at 40, 105 A.2d at 336 ("The earnings of the expert witness from other services performed by the defendant were a purely collateral matter and the testimony thereon was not admissible to affect his credibility."); *Mohn*, 357 Pa.Super. at 179, 515 A.2d at 923-24 (reasoning that the nexus between an expert's compensation for services rendered to entities other than the defense attorney's law firm and credibility was "tenuous at best," indicating that plaintiffs' entitlement to inquire into experts' potential bias does not encompass "the emptying of one's pockets and turning them inside out so that one's financial worth can be open to scrutiny," and holding that a trial court abused its discretion by permitting cross-examination regarding an expert's income that was unrelated to the results of trial).

FN9. On this point, Dr. Eagle observes that he maintains a practice in addition to performing medicolegal services, and thus, receives payments from insurance companies for first-party treatment in addition to fees for their expert witness services. Therefore, he claims that it would be very difficult and time consuming for him (and other similarly situated physicians) to reconstruct the details of underlying payments reflected on federal 1099 forms. Cf. *J.S. v. Whetzel*, 860 A.2d at 1121 (recognizing that some of Dr. Eagle's 1099 forms "may contain payments from insurance companies or other sources where no litigation was involved, or payments by attorneys in cases unrelated to personal injury," and remanding to the trial court for entry of an order protecting from discovery "those 1099 forms that are unrelated to this case," while noting that "the court may need to conduct additional inquiry to determine

which 1099 forms are relevant.").

In the broader frame, Dr. Eagle couches his appeal as an attempt to moderate what he regards as an emerging tactic of the plaintiffs' trial bar to routinely probe into the personal financial affairs of medical defense experts to "exact a price," in terms of the doctor's privacy, for performing an independent medical examination and testifying on a defendant's behalf. According to Dr. Eagle, three important public policy issues are implicated by the allowance of discovery of collateral expert witness financial records. He argues that discovery of an expert witness's financial affairs: has a chilling effect on the availability of qualified and experienced expert witnesses, see, e.g., Brief for Appellant at 17 ("Parties will wage a war of attrition by conducting onerous discovery of experts regarding collateral matters for purposes of impeachment."); substantially increases the burden, expense, and delay attendant on permitting parties to delve into matters that are collateral to the central issues in personal injury litigation, see *Elkins v. Syken*, 672 So.2d 517, 522 (Fla.1996) (highlighting that discovery was "never intended to be used as a tactical tool to harass an adversary in a manner that actually chills the availability of information by non-party witnesses; nor was it intended to make the discovery process so expensive that it could effectively deny access to information and witnesses or force parties to resolve their disputes unjustly"); and has a disproportionate, adverse impact on the defense. FN10 See generally *518 *Syken v. Elkins*, 644 So.2d 539, 544-45 (Fla.App.3d DA 1994) (concluding decisions on the issue of discovery of financial information from experts "have gone too far in permitting **491 burdensome inquiry into the financial affairs of physicians, providing information which 'serves only to emphasize in unnecessary details that which would be apparent to the jury on the simplest cross-examination: that certain doctors are consistently chosen by a particular side in personal injury cases to testify on its respective behalf' " (citation omitted)), *aff'd*, *Elkins*, 672 So.2d at 517.

FN10. Dr. Eagle argues that the Superior

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Court's *Cooper* decision, while appearing neutral on its face, is biased against the defense in light of "undeniable realities of personal injury litigation." Brief for Appellant at 16. In this regard, he elaborates on his perspective as follows:

It is axiomatic and to be expected that the defendant's attorney or insurance carrier chooses the doctor to perform the independent medical examination. While a plaintiff's treating physician is often determined by chance circumstance, and not by the plaintiff's lawyer, doctors who evaluate claims in litigation, and offer opinions from a non-treatment perspective for the defense, are in almost every instance asked to serve in that role by the defense lawyer. Thus, their service is inevitably "defense-related." Under this ruling, doctors who take such engagements will be subject to attack for being biased, simply because they have been engaged and compensated by the defense. Any expert who has performed "defense related" work on more than a few occasions becomes potentially damaged goods, because his past earnings from other engagements must be shown to the adversary as a routine discovery screen against potential bias.

Brief for Appellant at 16-17.

Ms. Schoffstall's brief follows many of the points made by Dr. Eagle and highlights that Ms. Cooper has already assembled "an arsenal of legal documents" related to Dr. Eagle's performance of medicolegal services, such that "the generic intent to 'prove bias' is unpersuasive at best." Brief for Ms. Schoffstall at 7. Ms. Schoffstall also sets forth her views concerning the assertedly improper motives of plaintiffs in seeking financial records from defense experts. *See id.* at 12 ("The personal tax information, other than records of payments made from defense counsel, is merely a gratuitous effort to impugn his credibility, disrupt his business, prevent him from ever desiring to offer medical-legal services again, and bully any potential expert witness from offering similar services.").

Ms. Cooper, for her part, denies the improper motives attributed to her and/or her counsel by Dr. Eagle and Ms. Schoffstall. Rather, she regards the sought-after discovery as an essential response to a defense tactic of cultivating and employing "professional witnesses," as well as the evasiveness of such witnesses in responding to legitimate inquiries concerning*519 the extent of their financial entanglements with defense firms and/or the insurance industry. In the case of Dr. Eagle, Ms. Cooper highlights the excerpts that she presented to Judge Lewis as establishing his substantial involvement, for at least thirteen years, in conducting examinations for defense attorneys, rehabilitation firms, and insurance companies. Additionally, she suggests that, although Dr. Eagle has acknowledged in the past that payment for defense medical examinations represent a "big ticket item" in terms of his income, he has frequently been evasive in answering questions seeking a more concrete understanding of the monetary significance to him of these activities. Ms. Cooper also references the litigation materials to suggest that Dr. Eagle has been vague and inconsistent in his responses to questions concerning the raw number of his litigation-related ventures in any given year. Furthermore, she maintains that the excerpts demonstrate predictable findings and conclusions employed by Dr. Eagle to minimize or negate plaintiffs' damages in personal injury actions.^{FN11}

FN11. Dr. Eagle's rejoinder is that the excerpts presented by Ms. Cooper were gathered by a selective process, and inconsistencies among his answers are accounted for by the fact that the degree of his involvement in providing litigation services has varied over the years.

Ms. Cooper regards the above as an ample foundation to support discovery to explore the partiality question. She also characterizes her discovery request as highly focused and minimally intrusive, in that it does not implicate unbridled access to Dr. Eagle's entire financial holdings, complete tax returns, or medical office records, but rather, requires only the production of recent federal

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1099 forms received from defense firms and/or insurance companies. Without the ability to obtain concrete evidence of the alleged pattern of bias, Ms. Cooper projects that impeachment cross-examination is likely to be unavailable or ineffective against a skilled, experienced expert who, knowing that he or she is safe from contradiction, may equivocate and prevaricate with impunity. For these reasons, Ms. Cooper suggests **492 that Judge Lewis exercised sound discretion and restraint in approving the *520 discovery, as the information before him amply demonstrated "cause shown" under the Rule 4003.5 standard that he applied.

Ms. Cooper also argues, however, that a demonstration of cause is not an essential prerequisite to obtaining discovery of collateral information related to potential bias from an expert witness under the Rules of Civil Procedure. Consistent with the Superior Court's approach, Ms. Cooper regards Rule 4003.5 as directed only to trial preparation material and Rule 4003.1 as containing an independent grant of authority for discovery of subjects not specifically covered by Rule 4003.5(a).

Ms. Cooper also differs with Dr. Eagle's contention that the decisional law closely restricts cross-examination concerning the extent of an expert witnesses' financial remuneration from defense firms and insurance companies. It is her position that evidence that an expert witness's testimony may be colored by bias or self-interest is nearly always relevant and is of strong probative value as impeachment evidence. *Accord Primm v. Isaac*, 127 S.W.3d 630, 634 (Ky.2004) ("No intellectually honest argument can be made that ... activities as a defense expert are not relevant for impeachment for bias."). In this regard, she highlights decisions of Pennsylvania courts that have defined potential bias in broad terms. *See, e.g., Grutski v. Kline*, 352 Pa. 401, 406, 43 A.2d 142, 144 (1945) ("Whatever tends to show the interest or feeling of a witness in a cause is competent by way of cross-examination." (quoting *Commonwealth v. Farrell*, 187 Pa. 408, 423, 41 A. 382, 384 (1898))). Further, Ms. Cooper takes issue with Dr. Eagle's reading of the Superior Court's *Mohn* decision by way of reference to subsequent

decisions that have permitted broader questioning, such as the *Cowan* decision cited by the Superior Court. *See also Smith v. Celotex Corp.*, 387 Pa.Super. 340, 564 A.2d 209 (1989) (finding, in a personal injury action grounded on asbestos exposure, no reversible error in the trial court's decision to permit the defendant's medical expert to be questioned about fees generated from testimony on behalf of defendants in other asbestos cases). Ms. Cooper indicates that trial and appellate courts exercise care in imposing reasonable restrictions *521 on the extent of the disclosure to protect the expert's privacy interests, as she contends occurred here and in the analogous decision of the Superior Court in the *J.S.* case, also involving Dr. Eagle.

Ms. Cooper also differs with Dr. Eagle in terms of the degree to which the tax records differentiate between first-party payments and payments related to expert witness testimony. Further, she suggests that the approach that she advocates applies evenly to experts retained by plaintiffs and defendants alike. Finally, like Dr. Eagle, Ms. Cooper also references decisions of other jurisdictions that contain lines of reasoning that are in general conformity with her arguments. *See, e.g., Primm*, 127 S.W.3d at 630; *Wroblewski*, 727 A.2d at 930.

[3] As a threshold matter, we agree with Judge Lewis's position (and that of many other trial judges, *see supra* note 6), that Rule 4003.5 should be read to restrict the scope of all discovery from non-party witnesses retained as experts in trial preparation. While the Superior Court and Ms. Cooper are correct that the plain terms of the Rule do not make this limitation clear, we believe that the better practice is to channel inquiries into collateral information through the Rule's "cause shown" criterion. *See Pa.R.Civ.P. No. 4003.5(a)(2)*. Notably, even the cases highlighted by Ms. Cooper tend to recognize a particularized need for trial court involvement**493 in determining the appropriate scope of discovery in individualized circumstances. *See Wroblewski*, 727 A.2d at 938 ("The allowance of the permitted inquiry, both at the discovery and trial stages, should be tightly controlled by the trial court and limited to its purpose[.]"). The effect is to center the discovery on the main issues and to reduce the intrusiveness

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and burden of collateral forays, while permitting such additional inquiries as the interests of justice may require in special circumstances, as determined within the sound discretion of the supervising court.

The remaining interpretive issue entails consideration of whether there are appropriate, general boundaries that should *522 define the range of special circumstances that will support supplemental discovery from an expert witness on the issue of potential favoritism arising from the regular acceptance of compensation for medicolegal work.

[4] In the first instance, it is necessary to address Dr. Eagle's argument that cause simply cannot exist, since the financial information involved does not meet even the lower threshold governing discovery generally, namely, the requirement that the request be reasonably calculated to lead to the discovery of admissible evidence. See Pa.R.Civ.P. No. 4003.1(a).^{FN12} As Dr. Eagle emphasizes, his position in this regard finds substantial support in the holding in *Zamsky*, 378 Pa. at 38, 105 A.2d at 335, where this Court found no relevance of compensation for collateral activities undertaken by an expert witness through which he had received significant financial remuneration from the defendant. See *id.* at 40, 105 A.2d at 336.

FN12. While adherence to the general standard pertaining to discovery certainly cannot be sufficient to establish additional "cause shown" under Rule 4003.5, we agree with Dr. Eagle that it is an essential prerequisite to cause.

Zamsky's reasoning is as follows. Initially, the Court observed that prior decisions had approved inquiries concerning the fees expert witnesses earned for testifying in the case at trial, but that those decisions did not concern fees earned for similar types of activities. See *id.* Having thus recognized that the issue was one of first impression before the Court, *Zamsky* resolved the question is a single, conclusory sentence: "The earnings of the expert witness from other services performed for the defendant were a purely collateral matter and

the testimony thereon was not admissible to affect his credibility." *Id.* There is no mention in *Zamsky* of the matter of potential favoritism arising from substantial monetary compensation, nor is there any consideration of the professional witness phenomenon. Compare *Wroblewski*, 727 A.2d at 932-34 (surveying decisional law and commentary beginning in the 1800s and continuing through the present reflecting the substantial concern with the grounding of expert testimony in *523 light of the various financial incentives that may be connected with that testimony). See generally Michael H. Graham, *Impeachment of Expert Witness-Financial Interest*, 21 Am.Jur. Proof of Facts 73 § 1 (2005) ("The professional expert witness has become a fact of life in the litigation process.").

Given that there is little depth in *Zamsky's* treatment, we do not regard it as the type of decision that should greatly constrain future consideration and/or adjustment, particularly across the broader range of cases. Cf. *Ayala v. Philadelphia Bd. of Pub. Ed.*, 453 Pa. 584, 606, 305 A.2d 877, 888 (1973) ("[T]he doctrine of *stare decisis* is not a vehicle for perpetuating error, but rather a legal concept which **494 responds to the demands of justice and, thus, permits the orderly growth processes of the law to flourish"). In particular, we find nothing in *Zamsky's* reasoning that provides an adequate basis for disagreement with the general proposition, recognized by most other courts, that a "pattern of compensation in past cases raises the inference of the possibility that the witness has slanted his testimony in these cases so he could be hired to testify in future cases." *Collins v. Wayne Corp.*, 621 F.2d 777, 784 (5th Cir.1980).^{FN13} Notably, even those jurisdictions that have substantially limited discovery of financial information from expert witnesses generally recognize the relevance of the information, albeit that they hold that its production as a matter of course would inject undue burden and expense into litigation and/or may have a chilling effect on the participation of experts. See, e.g., *Syken*, 644 So.2d at 544; accord *Elkins*, 672 So.2d at 519.^{FN14}

FN13. To its comment, quoted above, the

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Collins court added the following, salient perspective:

This Court does not suggest that [the expert witness's] testimony has ever been influenced by the compensation he has received. The Court's close analysis of the transcript reveals [him] to be an able, dedicated engineer. Furthermore, we recognize that professional expert witnesses often furnish testimony that is essential to the truth seeking process. Nonetheless, ability and dedication cannot insulate anyone from the suggestions of bias that a cross-examiner brings out when he plays his role in a trial.

Collins, 621 F.2d at 784 n. 5.

FN14. Notably, as well, Florida procedure as delineated in the *Syken* case, although restrictive, permits an expert to be deposed as a matter of course, and, in such effort, limited questioning is permitted regarding potential bias. See *Syken*, 644 So.2d at 546.

Pennsylvania's experience with the issue of the appropriate scope of discovery and cross-examination of expert witnesses concerning potential favoritism is not unlike that of other jurisdictions that have come to recognize the relevance of substantial compensation over time from the perspective of a particular interest. See, e.g., *Trower*, 117 Ill.Dec. 136, 520 N.E.2d at 299-301 (departing from an earlier line of decisions disapproving questioning of expert witnesses concerning compensation received in unrelated cases).

See generally Russell G. Donaldson, *Propriety of Cross-Examining Expert Witness Regarding His Status As "Professional Witness"*, 39 A.L.R.4th 742 § 2[a] (1985) (recognizing that, [a]lthough some early cases appear to have taken a more or less categorical view as to the propriety of such questioning generally by stating that certain specific questions in areas devoted to the elicitation of an expert's " 'professional witness' status were simply not permissible, as with most

issues concerning the propriety of cross-examination, the question of whether to permit cross-examination devoted to eliciting such status is today regarded as a matter largely within the discretion of the trial court[.]").

*524 *Zamsky* aside, we agree with the Superior Court that it is necessary to balance the respective interests involved to set the most suitable contours for discovery (and ultimately admissibility). Accord *Primm*, 127 S.W.3d at 632; *Syken*, 644 So.2d at 544; *State ex rel. Creighton v. Jackson*, 879 S.W.2d 639, 642 (Mo.App.1994). On the one hand, Ms. Cooper has an interest in the availability of some reasonable opportunity to inquire into the issue of potential favoritism, in light of the information that she has already assembled concerning Dr. Eagle's medicolegal experience developed at the behest of defense attorneys and/or the insurance industry. Dr. Eagle, on the other hand, maintains an interest in being free from unduly intrusive and burdensome litigation obligations. Additionally, we are cognizant of the broader concern with a potential chilling effect to which Dr. Eagle, and some courts, have referred.

[5][6] Therefore, we believe that the appropriate, threshold showing to establish cause for supplemental discovery related to potential favoritism of a non-party expert witness retained for trial preparation **495 is of reasonable grounds to believe that the witness may have entered the professional witness category. In other words, the proponent of the discovery should demonstrate a significant pattern of compensation that would *525 support a reasonable inference that the witness might color, shade, or slant his testimony in light of the substantial financial incentives. Accord *Wroblewski*, 727 A.2d at 936 (quoting *Collins*, 621 F.2d at 784). In the present case, we have no difficulty in supporting Judge Lewis's decision to authorize some supplemental discovery in Dr. Eagle's situation, where it is undisputed that in some recent years he has performed 200 or more independent medical examinations.

We are also cognizant, however, that other courts, with good reason, have directed the entry point for

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discovery toward questioning of the witness, as opposed to production of the witness's financial records. For example, the Florida courts have recognized that particularized inquiry into the financial affairs of an expert may serve only to highlight, in unnecessary detail, "that which would be apparent to the jury on the simplest cross-examination: that certain doctors are consistently chosen by a particular side in personal injury cases to testify on its respective behalf." *Syken*, 644 So.2d at 545 (quoting *LeJeune v. Aikin*, 624 So.2d 788, 789 (Fla.Dist.Ct.App.1993) (Schwartz, C.J., concurring)).^{FN15} Further, we agree with Dr. Eagle that substantial effort may be involved in producing information providing meaningful disclosure concerning the specific financial information desired by Ms. Cooper. See *supra* note 9.

FN15. The primary difficulty in Pennsylvania has been that, under *Zamsky*, litigants previously have been constrained unduly in their ability to accomplish the simplest cross-examination along these lines.

[7] In keeping with the idea that the discovery along these lines should be of the least burdensome and intrusive kind possible, we believe that the appropriate entry point, upon the showing of cause, is a deposition by written interrogatories under Rule of Civil Procedure 4004. Through this vehicle, and subject to the trial court's exercise of its sound discretion, the proponent of the discovery may be permitted to inquire as to the following: the approximate amount of compensation received and expected in the pending case; the character of the witnesses' litigation-related activities, and, in particular, the approximate percentage devoted to specific types of litigation and/or work on behalf of a particular litigant, class of *526 litigant, attorney, and/or attorney organization; the number of examinations, investigations, or inquiries performed in a given year, for up to the past three years; the number of instances in which the witness has provided testimony within the same period; the approximate portion of the witness's overall professional work devoted to litigation-related

services; and the approximate amount of income each year, for up to the past three years, garnered from the performance of such services.^{FN16} While we recognize that some jurisdictions have limited this form of discovery to exclude the income category, see, e.g., *Syken*, 644 So.2d at 546, we believe that this limited aspect of income information is within the fair scope of relevance on the question of potential favoritism. *Accord* **496 *Wroblewski*, 727 A.2d at 938 ("If there is a reasonable basis for a conclusion that the witness may be a 'professional witness,' the party may inquire ... into the amount of income earned in the recent past from services as an expert witness[.]").^{FN17}

FN16. To the degree that the witness will incur expenses connected with the deposition, the trial court has discretion to allocate costs appropriately, see Pa.R.Civ.P. No. 4003.5(a)(2), and we would expect that the questions often may be propounded to the expert deponent at a convenient time at his regular place of business.

FN17. *Wroblewski* also approved inquiries into the approximate portion of the witness's total income derived from medicolegal services. See *Wroblewski*, 727 A.2d at 938. Such information is of a more intrusive nature, as it yields disclosure of the witness's approximate total income, and therefore, we decline to approve the production or admission into evidence of such information in the absence of compelling circumstances.

[8] We will not at this juncture foreclose the trial courts, after an assessment of the interrogatory responses, and upon appropriate motion, from determining whether there is cause to support further supplemental discovery along the lines of what was approved by Judge Lewis in this case.^{FN18} For example, such discovery might be warranted if there is a strong showing that the witness has been evasive or untruthful*527 in the written discovery. Cf. *State ex rel. Creighton v.*

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Jackson, 879 S.W.2d 639, 643 (Mo.App.1994) (holding that a trial court did not abuse its discretion in requiring production of limited financial records including 1099 forms from an expert witness, where the witness was not forthcoming in previous depositions). ^{FN19} In all likelihood, however, in a case such as this one, the written interrogatories will produce sufficient information to support adequate trial preparation. With the responses, and subject to the trial court's exercise of sound discretion in the admission of evidence and in controlling the scope of cross-examination, within reasonable limits Ms. Cooper may suggest to the jury the same potential inference that gave rise to the cause supporting the supplemental discovery. Certainly, as well, Ms. Schoffstall may counter with her position that Dr. Eagle's opinions are non-partisan and neutral, and that he was chosen for his medical and communications skills.

FN18. We recognize the federal decisions cited by Dr. Eagle that have recognized a qualified privilege applicable to tax records; such privilege, however, may be overcome by a showing of relevance and need, similar to the requirements delineated here. See, e.g., *Eastern Auto Distribs.*, 96 F.R.D. at 148-49.

FN19. We decline to resolve the parties' present dispute as to whether or not Ms. Cooper's similar submission of excerpts from previous depositions demonstrates evasiveness and inconsistency on Dr. Eagle's part or constitutes an incomplete and selective portrayal fashioned by Ms. Cooper. Such determination is complicated by the informal character of that submission and is rendered unnecessary in this case by our decision to require pursuit of a less burdensome avenue of discovery, upon cause, as a threshold.

Since we find that there are procedures supporting adequate trial preparation on the issue of potential bias of non-party expert witnesses less burdensome

than production of personal financial records, the orders of the Superior Court and the common pleas court are vacated, without prejudice to the common pleas court's ability to authorize discovery consistent with this opinion.

Jurisdiction is relinquished.

Chief Justice CAPPY and Justice CASTILLE, EAKIN, and BAER join in the opinion.

Justice NIGRO did not participate in the decision of this case.

Justice NEWMAN files a concurring opinion.*528 Justice NEWMAN, concurring.

I agree with the Majority that the Orders of the Superior Court and the Dauphin County Court of Common Pleas must **497 be vacated, but write separately to emphasize my belief that pursuing the personal financial information of an expert witness is, with few exceptions, an abuse of the discovery process. The Pennsylvania Rules of Civil Procedure limit the scope of discovery to "any matter, not privileged, which is relevant to the subject matter involved in the pending action...." Pa.R.C.P. No. 4003.1. Discovery of expert testimony is limited to "facts known and opinions held by an expert ... acquired or developed in anticipation of litigation or for trial...." Pa.R.C.P. No. 4003.5(a). As indicated by the Majority, additional discovery may be sought from an expert witness "upon cause shown." However, cause shown is limited to "such restrictions as to scope and such provisions concerning fees and expenses as the court may deem appropriate." Pa.R.C.P. No. 4003.5(a)(2). Thus, the trial court has the discretionary authority to expand the discovery of expert opinions "acquired or developed in anticipation of litigation or for trial" upon cause shown or may permit reasonable inquiry about fees and expenses "upon cause shown." That discretion is limited, as noted by the Majority to a showing of cause. While it may generally be appropriate for a party to inquire whether a witness offered as an expert in a particular field earns a significant portion or amount of income from applying that expertise in a forensic setting, I believe that the trial court abused its discretion and that Dr. Eagle is being subjected to an inappropriate expedition into his personal and financial records.

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(Cite as: 588 Pa. 505, 905 A.2d 482)

The general belief is that expert testimony adds an aura of reliability to the theories and claims proffered by the parties. Further, the proliferation of forensic programs in the media has conditioned jurors to expect testimony from experts in the majority of cases. The general trial strategy descends to an attack on the credibility of the expert witness to diminish his or her effectiveness in the eyes of the fact finder and to enable the opposing party to "lift [the expert's] visor, so that the jury *529 [can] see who he was, what he represented, and what interest, if any, he had in the results of the trial." *Goodis v. Gimbel Bros.*, 420 Pa. 439, 218 A.2d 574, 577 (1966). In the instant matter, this attack took the form of a subpoena that required Dr. Eagle to produce "all federal 1099 forms received by [him] from any insurance company or law firm in connection with medical/ legal independent medical examinations, the preparation of reports, examinations, and depositions for the years 1997 through 2001." (Superior Court Memorandum Opinion, page 2.) While the trial court limited the production of 1099s to the period from 1999 through 2001, the request for proof of income received from any insurance company or attorney involving independent medical examinations and depositions during this period is overbroad because unfettered production of any and all of Dr. Eagle's 1099 forms could involve payments from insurance companies or other sources where no litigation was involved, or payments by attorneys in cases unrelated to personal injury. It could also reflect payments from attorneys or insurance companies for which Dr. Eagle did not end up testifying.

The Maryland Court of Appeals in *Wroblewski v. Nora de Lara*, 353 Md. 509, 727 A.2d 930, 938 (1999), cited with approval by the Majority, found that a party may inquire both into the amount of income earned in the recent past from services as an expert witness and into the approximate portion of the witness' total income derived from such service. The Court hastened to add, however, two important caveats:

First, we do not intend by our decision today to authorize the harassment of **498 expert witnesses through a wholesale rummaging of their personal and financial records under the guise of seeking impeachment evidence. The allowance of the

permitted inquiry, both at the discovery and trial stages, should be tightly controlled by the trial court and limited to its purpose, and not permitted to expand into an unnecessary exposure of matters and data that are personal to the witness and have no real relevance to the credibility of his or her testimony. Second, the fact that an expert witness devotes a significant amount of time to forensic activities or *530 earns a significant portion of income from those activities does not mean that the testimony given by the witness is not honest, accurate, and credible.

Id. at 938. I would also observe that the amount of an expert's income may be irrelevant altogether because the more skilled the professional, the more specialized or more complex the field, or the greater the expert's professional acclaim or reputation, the more he or she can charge for their services. Thus, an expert may earn a substantial income from forensic or analytical services because he or she is a leader in the field and not because he or she will serve any master for a price.

This Court has recognized that the level of a witness's compensation is a proper subject of cross-examination, tending to flush out any bias of the witness. See *Zamsky v. Public Parking Auth.*, 378 Pa. 38, 105 A.2d 335 (1954); *Commonwealth v. Simmons*, 361 Pa. 391, 65 A.2d 353 (1949); *Grutski v. Kline*, 352 Pa. 401, 43 A.2d 142 (1945). Cross-examination of an expert on financial bias, whether in a deposition or at trial, however, should generally reflect his or her compensation in the particular case and his or her relationship with the party or lawyer employing the expert. The fact that an expert witness has received generous compensation, coupled with such red flags as dubious methodology, the inability to test the expert's hypothesis, or a lack of general acceptance in the related field, may reasonably suggest that the expert has allowed his or her bank account to overcome his or her professional judgment. It is unduly burdensome to require an expert witness to compile financial information regarding his or her expert activities over an extended period of years. It is an inappropriate and, indeed, unnecessary inquiry in the case *sub judice* considering the amount of information Ms. Cooper has already

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(Cite as: 588 Pa. 505, 905 A.2d 482)

amassed. Therefore, I agree with the Majority that before an expert is required to bare his or her financial soul, sufficient cause must be shown in the nature of falsity, deception, or misrepresentation for purposes of denying bias. I am pleased that Pennsylvania is joining those select few of our sister states that have held that requiring an expert *531 witness to produce personal financial information is generally an abuse of the discovery process.^{FN1}

FN1. See, e.g., *Araiza v. Roskowski-Droneburg*, 341 Md. 314, 670 A.2d 466 (1996); *Donelson v. Fritz*, 70 P.3d 539 (Colo.Ct.App.2002); *Syken v. Elkins*, 644 So.2d 539 (Fla.Dist.Ct.App.1994).

Pa.,2006.

Cooper v. Schoffstall

588 Pa. 505, 905 A.2d 482

END OF DOCUMENT

Walsh, Collis & Blackmer, P.C.

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Pamela V. Collis
Marna K. Blackmer
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Adam M. Barnes +

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Natalie A. Troilo *
Thomas E. Zumpella
Tiffany L. Townsend *
Suzanne R. Hahn
David J. Fisher

+ Admitted to Practice in Ohio and West Virginia
* Admitted to Practice in West Virginia
• Admitted to Practice in New Jersey

May 25, 2007

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

In Re: Harold J. Roos, Jr. vs. Robert W. Bish & Trimount, Inc.

Court No. : 2005-00357 CD
D/Loss : 6/27/03
Our File No. : 245

Dear Mr. Naddeo:

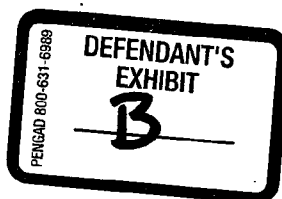
Enclosed are Defendants' Answers and Objections to Plaintiff's Expert Interrogatories. You will note that I have preserved an objection to the majority of your Expert Interrogatories based upon Pa.R.C.P. 4003.5(a)(2) and Cooper v. Schoffstall. Please advise of what evidence you have to show cause to obtain this information from Dr. Perry. My understanding of the Cooper decision is that there must be an appropriate threshold showing to establish cause of this type of discovery inquiry. Upon receiving this information from you I will reevaluate your request and my clients' objections and responses.

Sincerely,



Trisha A. Gill

TAG/dls
Enclosure



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Defendants'**
Response to Plaintiff's Motion to Compel has been mailed by U.S. Mail to counsel of
record via first class mail, postage pre-paid, this 22nd day of June, 2007:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By

Trisha A. Gill IRT

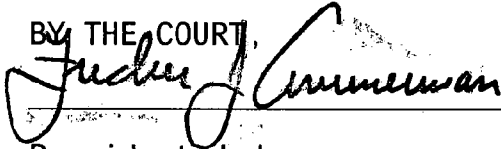
Trisha A. Gill, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.	:	
PLAINTIFF	:	
VS	:	NO. 05-357-CD
ROBERT W. BISH AND	:	
TRIMOUNT, INC.,	:	
DEFENDANTS	:	

O R D E R

NOW, this 9th day of July, 2007, this being the date set for argument on the Plaintiff's Motion to Compel and the Defendant's Objections to Interrogatories; upon taking of testimony, it is the finding of this Court that the Plaintiff has provided sufficient evidence that the Court believes meets the legal standards. The Motion to Compel is hereby GRANTED and the Defendant's Objections to the Plaintiff's Expert Interrogatories are DISMISSED. The defense is directed to provide full and complete answers to the set of interrogatories within no more than Twenty (20) Days from this date.

BY THE COURT,


President Judge

2cc Attys:
Nodded
D. Vegrinovich
T. Zaken
60

FILED
8/10:00am
JUL 16 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7-16-07

☐ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

FILED

JUL 16 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,

Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,

Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
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(814) 765-1601

FILED
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AUG 10 2007 3CC
Any

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD.

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
copy of the Notice of Taking Deposition was served on the
following and in the following manner on the 10th day of August,
2007:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

Gregory M. Bailey, DO
University Orthopedics Center
101 Regent Court
State College, PA 16801

ASAP Court Reporting
167 South McKean Street
Kittanning, PA 16201

NADDEO & LEWIS, LLC

By: James A. Naddeo

James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 3cc
01/31/2007
AUG 10 2007
William A. Shaw
Prothonotary/Clerk of Courts
Amy Naddeo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
copy of the Notice of Taking Deposition was served on the
following and in the following manner on the 10th day of August,
2007:

First-Class Mail, Postage Prepaid

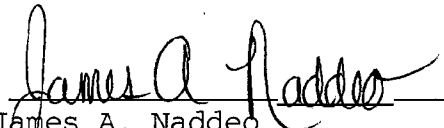
Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

Thomas J. Ellis, DO
University Orthopedics Center
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State College, PA 16801

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167 South McKean Street
Kittanning, PA 16201

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: September 7, 2007

FILED No CC.
9:340 am
SEP 07 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

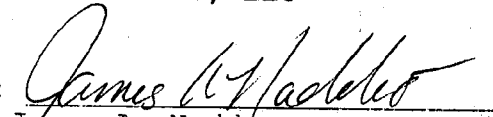
I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of the Interrogatories Addressed to Defendants (Set Three) was served on the following and in the following manner on the 7th day of September, 2007:.

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:



James A. Naddeo

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 4cc
013:4561
SEP 27 2007
Atty Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of the Amended Notice of Taking Deposition was served on the following and in the following manner on the 27th day of September, 2007:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

Gregory M. Bailey, DO
University Orthopedic Center
101 Regent Court
State College, PA 16801

ASAP Court Reporting
167 South McKean Street
Kittanning, PA 16201

NADDEO & LEWIS, LLC

By: James A. Naddeo

James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

013:45301
SEP 27 2007

4cc
Atty Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of the Amended Notice of Taking Deposition was served on the following and in the following manner on the 27th day of September, 2007:

First-Class Mail, Postage Prepaid

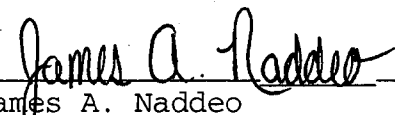
Trisha A. Gill, Esquire
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Thomas J. Ellis, DO
University Orthopedic Center
101 Regent Court
State College, PA 16801

ASAP Court Reporting
167 South McKean Street
Kittanning, PA 16201

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

UA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant.

No. 05-357-CD

Type of Pleading:

MOTION TO COMPEL

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: November 14, 2007

FILED ^{cc}
013:41721 Amy
NOV 14 2007 Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

(6)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

RULE

AND NOW, this 19 day of Nov, 2007, upon
consideration Motion to Compel filed on behalf of Plaintiff it is
hereby ORDERED that a Rule be granted upon the Defendants to show
cause why the relief requested should not be granted by Plaintiff
should not be granted.

Rule Returnable and argument thereon to be held the 19th of
December, 2007, at 11:00 A.m., in Courtroom 1 of
the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT


Judge

FILED^{icc}
01/2/21/07
NOV 19 2007
Att. Vaddao
(6K)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

NOV 19 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 11/19/07

 X You are responsible for serving all appropriate parties.
 The Prothonotary's office has provided service to the following parties:
 Plaintiff(s) Plaintiff(s) Attorney Other
 Defendant(s) Defendant(s) Attorney
 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

MOTION TO COMPEL

NOW COMES THE PLAINTIFF, HAROLD J. ROOS, JR., and by and through his attorney, requests this Court to enter an Order under Pa.R.C.P. 4003.5(a)(2) directing defendants to provide answers to plaintiff's expert witness interrogatories and in support thereof avers as follows:

1. This action was commenced by plaintiff for injuries sustained in an automobile accident.

2. Upon the request of defendants, plaintiff was evaluated by Dr. John Perry who conducted an independent medical examination and authored a report based upon the same.

3. On or about May 8, 2007, plaintiff served expert interrogatories upon defendants.

4. Defendants objected to the above noted expert interrogatories and plaintiff then filed a motion to compel.

5. On or about July 9, 2007 argument was held and testimony was taken by the Court on plaintiff's motion to

compel. The Court found plaintiff had met the legal standard required and shown cause sufficient that defendants were required to answer plaintiff's expert interrogatories. A true and correct copy of Order of Court is attached hereto as Exhibit "A."

6. On or about September 7, 2007, plaintiff served additional expert interrogatories upon defendants. A true and correct copy of Interrogatories Addressed to Defendants (Set Three) are attached hereto as Exhibit "B."

7. That defendants have objected to plaintiff's additional expert interrogatories and/or have excused the answering of the same due to an alleged "inability" to obtain the numbers requested and are thereby refusing to answer the same. A true and correct copy of Defendants' Answers to Plaintiff's Interrogatories (Set Three) is attached hereto as Exhibit "C."

8. That plaintiff's additional interrogatories ask for the expert to answer the number of IMEs performed in each of the last three years.

9. That the interrogatories as described in paragraph 8 above are within the very parameters of Cooper v. Schoffstall, 588 Pa. 505 (Pa. 2006) which states an appropriate inquiry is "the number of examinations, investigations, or inquiries performed in a given year, for up to the past three years." Cooper v. Schoffstall, at 526.

10. That defendants' objections to plaintiff's request to know the number of IMEs per year performed by the expert witness are not warranted and defendants alleged inability to obtain the answer or information is an insufficient answer to the same.

11. That plaintiff has further inquired as to the character of defendants' expert's IMEs pursuant to Cooper v. Schoffstall which states an appropriate inquiry is "the character of the witnesses' litigation-related activities." Id. at 525.


12. That defendants' objections as to those inquiries by plaintiff as to the character of the expert witness' litigation-related activities, in particular the character of the IMEs are not warranted.

13. That pursuant to the Cooper v. Schoffstall decision plaintiff is entitled to have the expert interrogatories answered.

WHEREFORE, Plaintiff HAROLD J. ROOS, JR., respectfully requests your Honorable Court issue a rule upon defendants to show cause why this Court should not enter an order dismissing defendants' objections to plaintiff's expert interrogatories and direct defendants to answer the same.

Respectfully Submitted,

NADDEO & LEWIS, LLC

By 
James A. Naddeo
Attorney for Plaintiff

Indy

JUL 16 2007

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR. :

PLAINTIFF :

VS :

NO. 05-357-CD

ROBERT W. BISH AND :

TRIMOUNT, INC., :

DEFENDANTS :

O R D E R

NOW, this 9th day of July, 2007, this being the date set for argument on the Plaintiff's Motion to Compel and the Defendant's Objections to Interrogatories; upon taking of testimony, it is the finding of this Court that the Plaintiff has provided sufficient evidence that the Court believes meets the legal standards. The Motion to Compel is hereby GRANTED and the Defendant's Objections to the Plaintiff's Expert Interrogatories are DISMISSED. The defense is directed to provide full and complete answers to the set of interrogatories within no more than Twenty (20) Days from this date.

BY THE COURT,
/s/ Fredric J Ammerman

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 16 2007

Attest.

William A. Shaw
Prothonotary/
Clerk of Courts

Exhibit "A"

mailed
9/7/07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

INTERROGATORIES ADDRESSED
TO DEFENDANTS (SET THREE)

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: September 7, 2007

Exhibit "B"

IN THE COURT OF COMMON PLEAS OF INDIANA COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff,

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation
Defendant.

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No. 05 - 357 - CD

INTERROGATORIES ADDRESSED TO DEFENDANTS (SET THREE)

To: Robert W. Bish and Tri
Mount, Inc.
c/o Trisha A. Zaken, Esquire
Walsh, Collis & Blackmer, LLC
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

Demand is hereby made that you answer the following interrogatories under oath or verification pursuant to the Pa. R.C.P. No. 4005 and 4006 within thirty (30) days from service hereof. The answering party is under a duty to supplement their responses under the following conditions:

The party must supplement his response with respect to any question, directly addressed to the identity and location of persons having knowledge of discoverable matters and the identity of each person expected to be called as an expert witness at trial.

A party or expert witness must amend a prior response if he obtains information upon the basis of which:

(a) He knows that the response was incorrect when made; or,

(b) He knows that the response, though correct when made, is no longer true.

Exhibit "B"

I. DEFINITIONS

The following definitions are usage that applies to
~~all of the Interrogatories contained herein:~~

A. The singular and masculine form of any noun or pronoun shall embrace, and be read and applied as, the plural or feminine or neuter as circumstances may make appropriate.

B. "Document" refers to all types of written, recorded or graphic matter, however produced or reproduced.

C. "Person" refers to any person, firm, corporation, partnership, proprietorship, association or agency.

D. "Identify" when used:

1. In reference to a person, means to state the full name, full title, last known resident address, last known business address and last known occupation and business affiliation.

2. In reference to documents, means to state with respect to each and every document, the type of document, author's name, recipient's name, date of preparation, present or last known custodian and location, and title and identification code or number of the file in which the document is kept.

II. INTERROGATORIES

1. Please answer the following questions listed below for each designated year or time frame.

A. What is the total number of IMEs performed in the year 2004 by Dr. Perry?

i. Of the total IMEs performed in 2004 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

ii. Of the number given in answer to 1(A)(i), how many instances was total disability found?

iii. Of the number given in answer to 1(A)(i), how many instances was partial (or temporary) disability found?

B. What is the total number of IMEs performed in the year 2005 by Dr. Perry?

i. Of the total IMEs performed in 2005 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

ii. Of the number given in answer to 1(B)(i), in how many instances was total disability found?

iii. Of the number given in answer to 1(B)(i), how many instances was partial (or temporary) disability found?

C. What is the total number of IMEs performed in the year 2006 by Dr. Perry?

i. Of the total IMEs performed in 2006 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

ii. Of the number given in answer to 1(C)(i), in how many instances was total disability found?

iii. Of the number given in answer to 1(C)(i), in how many instances was partial (or temporary) disability found?

D. What is the total number of IMEs performed in the year 2007 to date by Dr. Perry?

i. Of the total IMEs performed in 2007 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

ii. Of the number given in answer to 1(D)(i), in how many instances was total disability found?

iii. Of the number given in answer to 1(D)(i), in how many instances was partial (or temporary) disability found?

NADDEO & LEWIS, LLC

BY: _____
James A. Naddeo, Esquire
Attorney for Plaintiff

VERIFICATION

I verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

Tri Mount, Inc.

By: _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,

an individual,

Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,

Defendant

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*
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*
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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of the Interrogatories Addressed to Defendants (Set Three) was served on the following and in the following manner on the 7th day of September, 2007:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:


James A. Naddeo

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

**DEFENDANT'S ANSWERS TO
PLAINTIFF'S INTERROGATORIES (SET
THREE)**

Defendants.

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

Exhibit "C"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ANSWERS TO PLAINTIFF'S INTERROGATORIES (SET THREE)

1. Please answer the following questions listed below for each designated year or time frame.

A. What is the total number of IMEs performed in the year 2004 by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He performed 131 IMEs through IMX Medical Management Services in the year 2004.

i. Of the total IMEs performed in 2004 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

ii. Of the number given in answer to 1(A)(i), how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required

by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- iii. Of the number given in answer to 1(A)(i), how many instances was partial. (or temporary) disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- B. What is the total number of IMEs performed in the year 2005 by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He performed 104 IMEs through IMX Medical Management Services in the year 2005.

- i. Of the total IMEs performed in 2005 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- ii. Of the number given in answer to 1(B)(i), in how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- iii. Of the number given in answer to 1(B)(i), how many instances was partial (or temporary) disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- C. What is the total number of IMEs performed in the year 2006 by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He performed 68 IMEs through IMX Medical Management Services in the year 2006.

- i. Of the total IMEs performed in 2006 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- ii. Of the number given in answer to 1(C)(i), in how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- iii. Of the number given in answer to 1(C)(i), in how many instances was partial (or temporary) disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- D. What is the total number of IMEs performed in the year 2007 to date by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He has performed 31 IMEs through IMX Medical Management Services as of September 30, 2007.

- i. Of the total IMEs performed in 2007 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- ii. Of the number given in answer to 1(D)(1), in how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- iii. Of the number given in answer to 1(D)(i), in how many instances was partial (or temporary) disability found?

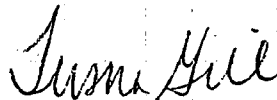
Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required

by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Gill, Esquire
Counsel for Defendants

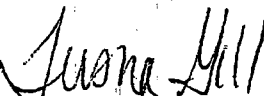
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
DEFENDANT'S ANSWERS TO PLAINTIFF'S INTERROGATORIES (SET THREE) has
been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this
20 day of October, 2007.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Gill, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S MOTION TO COMPEL**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
PA. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED NOCC
m/12:30/07
DEC 17 2007 GK
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO COMPEL

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, PC, and Trisha A. Gill, Esquire, and file the following Response to Plaintiff's Motion to Compel and aver as follows:

1. Paragraph 1 of Plaintiff's Motion to Compel is not directed to Defendants and requires no response. To the extent that a response is required, Paragraph 1 is admitted.

2. Paragraph 2 of Plaintiff's Motion to Compel is not directed to Defendants and requires no response. To the extent that a response is required, Paragraph 2 is admitted.

3. Paragraph 3 of Plaintiff's Motion to Compel is not directed to Defendants and requires no response. To the extent that a response is required, Paragraph 2 is admitted.

4. Paragraph 4 of Plaintiff's Motion to Compel is not directed to Defendants

and requires no response. To the extent that a response is required, Paragraph 2 is admitted.

5. Paragraph 5 of Plaintiff's Motion to Compel is admitted in part and denied in part. It is admitted that argument of Plaintiff's Motion to Compel was held on July 9, 2007. All other averments of Paragraph 5 are denied as stated. The Order of Court speaks for itself. Furthermore, Plaintiffs complied with the Order of Court and served Plaintiff with discovery responses on July 26, 2007 (See Verified Answers of Non-Party Expert, John F. Perry, MD to Plaintiff's Expert Interrogatories, attached hereto as Exhibit "A").

6. Paragraph 6 of Plaintiff's Motion to Compel is admitted.

7. Paragraph 7 of Plaintiff's Motion to Compel is denied as stated. Defendants' Answers to Plaintiff's Interrogatories (Set Three) speak for themselves. (See Defendants' Answers to Plaintiff's Interrogatories (Set Three), attached hereto as Exhibit "B").

8. Paragraph 8 of Plaintiff's Motion to Compel is denied as stated. Plaintiff's Interrogatories Addressed to Defendants (Set Three) speak for themselves.

9. Paragraph 9 of Plaintiff's Motion to Compel contains legal conclusions to which no response is required. To the extent that a response is required, Paragraph 9 is denied. Plaintiff's requests for the "total number of IMEs performed" by Dr. Perry in the years 2004, 2005, 2006, and 2007, are overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Pa.R.C.P. 4003.5, 4011. *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006) states that "Rule 4003.5 should be read to restrict the scope of all discovery from non-party witnesses retained as experts in trial

preparation.” Defendants have already answered Plaintiff’s interrogatory by disclosing that Dr. Perry has performed approximately 550 IMEs in each of the last three years. (See Exhibit “B”). Expert discovery “along these lines should be of the least burdensome and intrusive kind possible,” and supplemental expert discovery is only appropriate “if there is a strong showing that the witness has been evasive or untruthful in the written discovery.” *Id.* Even if such a strong showing exists, supplemental discovery requests may still be found to be overly broad and burdensome. *Feldman v. Ide*, 915 A.2d 1208 at 1212 (Pa. Super. 2007). IMX Medical Management Services (“IMX”), the service through which Dr. Perry’s expertise was obtained by these Defendants, has provided the total number of IMEs Dr. Perry has performed through his relationship with IMX from 2004-2007. However, because Dr. Perry performs the bulk of his IMEs as part of his private practice, ascertaining the exact number of examinations he has performed in this manner would require an extremely costly and time consuming records retrieval and review requiring 137 hours of work at an estimated cost to Dr. Perry of approximately \$15,000.00 (See October 19, 2007 letter from Jeff Penner, IMX Medical Management Services, to counsel for Defendants, attached hereto as Exhibit “C”).

10. Paragraph 10 of Plaintiff’s Motion to Compel contains legal conclusions to which no response is required. To the extent that a response is required, Paragraph 10 is denied. Plaintiff has failed to “show cause to support further supplemental discovery” in light of Dr. Perry’s prior responses, which show no signs of being “evasive or untruthful.” *Cooper v. Schoffstall*, 905 A.2d 482. Even with such a showing, Plaintiff’s requests are overly broad, burdensome, irrelevant, and unlikely to lead to the

discovery of relevant evidence. *Feldman v. Ide*, 915 A.2d 1208.

11. Paragraph 11 of Plaintiff's Motion to Compel contains legal conclusions to which no response is required. To the extent that a response is required, Paragraph 11 is denied. Those interrogatories which request that Dr. Perry disclose the specific number of instances that disability, whether total or otherwise, were found by Dr. Perry during the performance of IMEs would serve only to supplement Dr. Perry's prior responses, wherein he disclosed that he performs approximately 95% of his IMEs at the behest of Defendants and Employers. Plaintiff has failed to show cause to support further supplemental expert discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482. Dr. Perry's prior responses have produced "sufficient information to support adequate trial preparation" on the part of the Plaintiff, and he will be able to "suggest to the jury the same potential inference that gave rise to the cause supporting the supplemental discovery" regardless of whether further supplemental discovery is granted. *Id.* Furthermore, even if supplemental expert discovery is warranted, Plaintiff's request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence, as detailed above. *Feldman v. Ide*, 915 A.2d 1208.

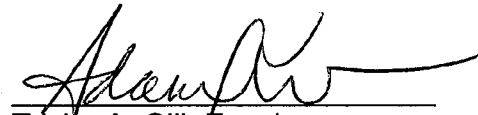
12. Paragraph 12 of Plaintiff's Motion to Compel contains legal conclusions to which no response is required. To the extent that a response is required, Paragraph 12 is denied. Plaintiff has failed to "show cause to support further supplemental discovery" in light of Dr. Perry's prior responses, which show no signs of being "evasive or untruthful." *Cooper v. Schoffstall*, 905 A.2d 482. Even with such a showing, Plaintiff's requests are overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. *Feldman v. Ide*, 915 A.2d 1208.

13. Paragraph 13 of Plaintiff's Motion to Compel contains legal conclusions to which no response is required. To the extent that a response is required, Paragraph 13 is denied. Pursuant to *Cooper v. Schoffstall* and *Feldman v. Ide*, Plaintiff's Motion to Compel should be denied.

WHEREFORE, Defendants Robert W. Bish and Tri Mount, Inc., respectfully request that this Honorable Court sustain Defendants objections to Plaintiff's Interrogatories Addressed to Defendants (Set Three) and deny Plaintiff's Motion to Compel. In the alternative, should Plaintiff's motion be granted, these Defendants respectfully request that this Honorable Court order Plaintiff to reimburse Defendants for the reasonable costs associated with retrieving the requested information.

Respectfully submitted

Walsh, Collis & Blackmer, LLC.

A handwritten signature in black ink, appearing to read 'Trisha A. Gill', is written over a horizontal line.

Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for the Defendants.

*JHS
clisco*

VERIFIED ANSWERS OF NON-PARTY EXPERT,
JOHN F. PERRY, M.D. TO PLAINTIFF'S EXPERT INTERROGATORIES

Non-party expert, John F. Perry, M.D, hereby submits the following verified "Cooper" expert discovery disclosure pursuant to Rule 4004 of the Pennsylvania Rules of Civil Procedure in accordance with the Pennsylvania Supreme Court decision in the case of Cooper v. Schoffstall, ___ Pa. ___, 905 A.2d 482 (2006 Pa. LEXIS 1717; September 7, 2006):

(1) the approximate amount of compensation received and expected in the pending case;

Answer: \$300.00 for the file review of Plaintiff from 5/22/06. \$700.00 for the independent medical examination ("IME") of Plaintiff, including the written report and records review from 6/16/06.

(2) the character of the witness' litigation-related activities, and, in particular, the approximate percentage devoted to specific types of litigation and/or work on behalf of a particular litigant, class of litigant, attorney and/or attorney organization;

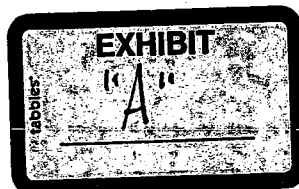
Answer: Upon information and belief, after reasonable investigation, with respect to litigation-related activities, estimated 85% to 95% has been in worker's compensation proceedings and estimated 5% to 15% has been in motor vehicle accident and general liability matters or actions. Upon information and belief, after reasonable investigation, with respect to litigation-related activities, approximately 5% of my services have been on behalf of plaintiffs/claimants and their attorneys and approximately 95% to of my services have been on behalf of defendants and employers and their insurers and/or attorneys. With respect to the law firm of Walsh, Collis & Blackner, P.C. counsel for Defendants in this matter, I have performed 1 independent medical examination with report in the three year period from 2004 through 2007. With respect to Cincinnati Insurance Company, I have performed 1 independent medical examination with report in the three year period from 2004 through 2007.

(3) the number of examinations, investigations, or inquiries performed in a given year, for up to the past three years;

Answer: Upon information and belief, after reasonable investigation, in the past three year period, I have performed approximately 550 independent medical examinations with reports on average per year.

(4) the number of instances in which the witness has provided testimony within the same period;

Answer: Upon information and belief, after reasonable investigation, in the past three year period, I have appeared in and provided testimony in approximately 95 depositions on average per year.



Jul 26 2007 4:57PM

JOHN F. PERRY, MD

610 51662

p.3

(5) the approximate portion of the witness' overall professional work devoted to litigation-related services; and

Answer: Upon information and belief, after reasonable investigation, in the past three year period, I have devoted approximately less than 50% of my total practice time to the litigation-related services including IMEs and depositions. This includes litigation-related work done in my private practice and as a sub-contractor.

(6) the approximate amount of income each year, for up to the past three years, garnered from the performance of such services.

Answer: Upon information and belief, after reasonable investigation, for the past three year period, the average annual gross income I have garnered from performance of litigation-related services is approximately \$479,000.00 per year.

IV. Verification:

I, John F. Perry, M.D., do hereby swear and affirm that the facts and matters set forth in these objections and answers to Plaintiff's Expert Interrogatories are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements made therein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



John F. Perry, M.D.Dated: July 26, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**DEFENDANT'S ANSWERS TO
PLAINTIFF'S INTERROGATORIES (SET
THREE)**

Filed on Behalf of the Defendants

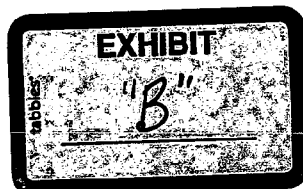
Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ANSWERS TO PLAINTIFF'S INTERROGATORIES (SET THREE)

1. Please answer the following questions listed below for each designated year or time frame.

A. What is the total number of IMEs performed in the year 2004 by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He performed 131 IMEs through IMX Medical Management Services in the year 2004.

i. Of the total IMEs performed in 2004 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

ii. Of the number given in answer to 1(A)(i), how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required

by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- iii. Of the number given in answer to 1(A)(i), how many instances was partial. (or temporary) disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- B. What is the total number of IMEs performed in the year 2005 by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He performed 104 IMEs through IMX Medical Management Services in the year 2005.

- i. Of the total IMEs performed in 2005 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- ii. Of the number given in answer to 1(B)(i), in how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- iii. Of the number given in answer to 1(B)(i), how many instances was partial (or temporary) disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- C. What is the total number of IMEs performed in the year 2006 by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He performed 68 IMEs through IMX Medical Management Services in the year 2006.

- i. Of the total IMEs performed in 2006 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- ii. Of the number given in answer to 1(C)(i), in how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- iii. Of the number given in answer to 1(C)(i), in how many instances was partial (or temporary) disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- D. What is the total number of IMEs performed in the year 2007 to date by Dr. Perry?

Objection. Defendants object to this interrogatory on the grounds that it is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. Subject to this objection, Dr. Perry has already indicated that he performs about 550 IMEs per year. This total represents IMEs performed in his private practice and through IMX Medical Management Services. Definite yearly totals for IMEs performed in his private practice are unavailable. He has performed 31 IMEs through IMX Medical Management Services as of September 30, 2007.

- i. Of the total IMEs performed in 2007 by Dr. Perry, in how many instances did he find the plaintiff or injured person to have disability?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

- ii. Of the number given in answer to 1(D)(1), in how many instances was total disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

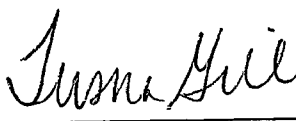
- iii. Of the number given in answer to 1(D)(i), in how many instances was partial (or temporary) disability found?

Objection. Defendants object to this interrogatory on the grounds that Plaintiff has failed to show cause to support further supplemental discovery as required

by *Cooper v. Schoffstall*, 905 A.2d 482 (Pa. 2006). Furthermore, even if this supplemental interrogatory is permitted by the Court, this request is overly broad, burdensome, irrelevant, and unlikely to lead to the discovery of relevant evidence. See *Feldman v. Ide*, 915 A.2d 1208 (Pa. Super. 2007).

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By 

Trisha A. Gill, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing
DEFENDANT'S ANSWERS TO PLAINTIFF'S INTERROGATORIES (SET THREE) has
been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this
24 day of October, 2007.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Gill
Trisha A. Gill, Esquire
Counsel for Defendants



October, 19 2007

Adam Knorr
Walsh, Collis & Blackmer, PC
The Gulf Tower
Suite 1400
707 Grant Street
Pittsburgh, PA 15219

RE: Your file 245/Roos

Adam,

Listed below is the information that you requested:

1) Number of Independent Evaluation performed per year by Dr. John Perry:

At this time I am only able to provide you with the number of evaluation that Dr. Perry performed on behalf of IMX Medical Management Services for the years 2004, 2005, 2006 and 2007 through September. As you are aware Dr. Perry performs IMEs in his private practice and at this time he is not able to give an exact number of IMEs per year. It would be extremely time consuming and costly to research.

The numbers as they pertain to IMX are as follows:

2004 = 131 2005 = 104 2006 = 68 2007 (1/1/07-9/30/07) 31

2) Time and cost to review all IMEs to determine doctor's findings for the years of 2004-2006:

Search and retrieval fee: \$9900.00 (\$18.00 per file X 550 approx. # of IMEs from 2004-2006)

Time to review all reports: 137 hours (Approx. 15 minutes per file X 550)

Cost of qualified staff to review reports "RN, CCM, CDMS": \$4932.00.00 (\$36.00/hour X 137 hours)

Total approximate cost to review 550 reports = \$14832.00

If I can be of further assistance, please contact me at 484-434-2207.

Regards,
Jeff Penner

A handwritten signature, likely "JP", enclosed in a hand-drawn circle.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2007, the Plaintiff's Motion to
Compel is **DENIED**.

BY THE COURT:

J.

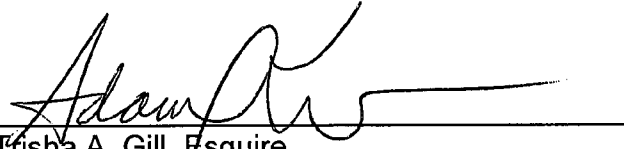
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **RESPONSE TO PLAINTIFF'S MOTION TO COMPEL** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 14th day of December, 2007.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By


Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

HAROLD J. ROOS, JR., an
Individual

-vs-

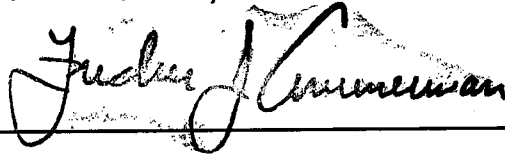
No. 05-357-CD

ROBERT W. BISH and TRI
MOUNT, Inc., a Corporation :

O R D E R

AND NOW, this 9th day of January, 2008, following
argument on the Plaintiff's Motion to Compel and the Court's
review of the parties' brief, it is the ORDER of this Court
that said Motion to Compel filed on November 14, 2007, be and
is hereby dismissed.

BY THE COURT,



President Judge

FILED REC Atty's:
01/10/15/08 Maddeo
JAN 10 2008 Vugrinovich Gill

William A. Shaw
Prothonotary/Clerk of Courts (CR)

FILED

JAN 10 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/10/08

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

NOTICE OF SERVICE

FILED

MAR 03 2008
m/11/10/08
William A. Shaw
Prothonotary/Clerk of Courts
no c/c (GK)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.


NOTICE OF SERVICE

To: Prothonotary

The undersigned herein represents that a Third Set of Supplemental Interrogatories and Request for Production of Documents were sent to James Naddeo, Esquire, on February 29, 2008.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By 

Trisha A. Gill, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Notice of Service** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 29 day of February, 2008:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Gill
Trisha A. Gill, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: March 25, 2008

FILED No cc.

0/10:55am

MAR 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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*
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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of the Answers to Third Set of Supplemental Interrogatories and Request for Production of Documents was served on the following and in the following manner on the 25th day of March, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:



James A. Naddeo

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**PRAECIPE FOR TRIAL IN
ACCORDANCE WITH LOCAL RULE
212.2**

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

MT 12:50 PM
APR 17 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

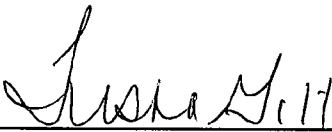
Defendants.

PRAECIPE FOR TRIAL IN ACCORDANCE WITH LOCAL RULE 212.2

There are no outstanding motions and discovery has been completed. This case is ready for a trial. A jury trial is demanded.

Respectfully submitted,

WALSH, COLLIS & BLACKMER, P.C.

By 

Trisha A. Gill, Esquire
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **PRAECIPE
FOR TRIAL IN ACCORDANCE WITH LOCAL RULE 212.2** has been mailed by U.S.
Mail to counsel of record via first class mail, postage pre-paid, this 15 day of April,
2008:

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By Trisha A. Gill
Trisha A. Gill, Esquire
Counsel for Defendants

6A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
Plaintiff

vs.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants

*
*
*
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*

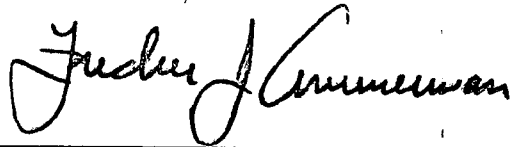
NO. 05-357-CD

ORDER

AND NOW, this 29th day of April, 2008, it is the ORDER of the Court that a Pre-Trial Conference in the above matter shall be held on the 19th day of May, 2008, in Chambers at 9:00 o'clock a.m.

Jury Selection in this matter is scheduled for July 24, 2008 in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

014:0030
APR 29 2008

100445
Waddeo
Vugrinovich/Gill

William A. Shaw
Prothonotary/Clerk of Courts

CP

FILED

APR 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4/29/08

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**DEFENDANTS' MOTION FOR
CONTINUANCE OF PRETRIAL
CONFERENCE**

(Jury Trial Demanded)

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
PA. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED^{NO} CC
MAY 07 2008
MAY 07 2008
62

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,
Plaintiff,

CIVIL DIVISION

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,
Defendants.

DEFENDANTS' MOTION FOR CONTINUANCE OF PRETRIAL CONFERENCE

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, PC, and Trisha A. Gill, Esquire, and file the following Motion for Continuance of Pretrial Conference and aver as follows:

1. This case involves a motor vehicle accident that occurred in June 2003.
2. This matter has been scheduled for Pretrial Conference on May 19, 2008 at 9:00 a.m. in front of the Honorable Frederick J. Ammerman.
3. Counsel for the Defendants, Trisha Gill, is scheduled to begin trial in Allegheny County on May 19, 2008. It is expected that this trial in Allegheny County will last between May 19, 2008 and May 23, 2008.
4. Attorney Gill is also scheduled for an all day mediation on May 28, 2008.

WHEREFORE, Counsel for the Defendants hereby respectfully requests that the Pretrial Conference in the above-captioned matter be continued.

Respectfully submitted,

Walsh, Collis & Blackmer, P.C.

By



Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ORDER OF COURT

AND NOW, to wit, this 8th day of MAY, 2008, it is hereby ORDERED, ADJUDGED AND DECREE, that Defendants' Motion for Continuance of Pretrial Conference is GRANTED and the Pretrial Conference is continued to Thursday, July 17, 2008, at 9:00 A.M.

BY THE COURT:


J.

FILED 3cc
08:41 PM
MAY 12 2008
Atty Gill
CP

William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAY 12 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/12/08

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

CERTIFICATE OF SERVICE

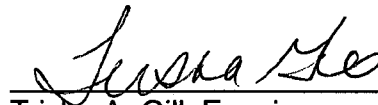
I HEREBY CERTIFY that a true and correct copy of the foregoing **MOTION FOR CONTINUANCE OF PRETRIAL CONFERENCE** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 5 day of May, 2008.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Respectfully submitted,

Walsh, Collis & Blackmer, P.C.

By



Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED (610)

JUN 10 2008

013:40W
William A. Shaw
Prothonotary/Clerk of Courts

3 cent to Mr

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of the Notice of Taking Deposition was served on the following and in the following manner on the 10th day of June, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

Thomas J. Ellis, DO
University Orthopedics Center
101 Regent Court
State College, PA 16801

Maryann Cornelius, Court Reporter
339 Southmont Boulevard
Johnstown, PA 15905

NADDEO & LEWIS, LLC

By: James A. Naddeo

James A. Naddeo
Attorney for Plaintiff

✓A

Plaintiff

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,

Defendant

Type of Pleading:

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Nadeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED 2 CC AAY
0/3:30 am Naddeo
JUL 16 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

PLAINTIFF'S THIRD MOTION IN LIMINE

NOW COMES the Plaintiff, Harold Roos, Jr., and by his attorney, James A. Naddeo, Esquire, moves this Court to enter an Order in Limine to prevent testimony by the witness, Mark Ruggerio, concerning the following matters:

1. Any and all facts relating to a "beer can" at the scene of the accident. A true and correct copy of Statement of Mark Ruggerio is attached hereto as Exhibit "A;" and

2. Any and all facts or statements that represent how the accident occurred as the witness states he did not witness the same at paragraph 3 of Exhibit A, said paragraph states he "only saw an explosion of car parts."

In support thereof Plaintiff further avers as follows:

1. On or about May 9, 2005, Plaintiff filed this civil action against defendants in the Court of Common Pleas of Clearfield County, Pennsylvania.

2. This suit arose out of a motor vehicle accident that occurred on or about June 27, 2003.

3. On or about July 8, 2008, Plaintiff received the statement of Mark Ruggerio from Defendant.

4. That whether or not a beer can allegedly fell out of Plaintiff's vehicle is irrelevant and prejudicial.

5. That the witness, Mark Ruggerio, states he did not see the accident and therefore it is not within his knowledge and he cannot offer testimony as to how the accident occurred.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant plaintiff's Motion in Limine and exclude testimony by witness, Mark Ruggerio, regarding the circumstances of how the accident on June 27, 2003 may or may not have occurred and that a beer can allegedly fell from Plaintiff's vehicle.

Respectfully submitted,

By James A. Naddeo
James A. Naddeo, Esquire
Counsel for Plaintiff

STATEMENT OF MARK RUGGERIO

1. My name is Mark Ruggiero and I live at 6095 Deer Creek Road in Morrisdale, Pennsylvania. I am the same person identified as a witness in the Police Report of a motor vehicle accident that occurred on June 27, 2003 on State Route 53 near Morrisdale, Pennsylvania.
2. On June 27, 2003, I was driving my jeep southbound on Pennsylvania State Route 53 towards Morrisdale with my nephew. My vehicle was behind a Napa Truck.
3. There were several vehicles also traveling southbound between my jeep and the Napa Truck. All of the vehicles were traveling at a reasonable rate of speed. I never saw any vehicles cross the center lane.
4. To the extent that the Police Report of this accident indicates otherwise, it is incorrect. On the contrary, I only saw an explosion of car parts when the Napa Truck and a green truck collided. Due to the collision, the Napa Truck spun across the northbound lane and came to rest in a field near a corn silo on Hoeffner's Farm.
5. The green truck came to rest in the northbound lane within ten (10) or fifteen (15) feet of my jeep with its front end facing northeast and the driver's door directly in my line of sight. The driver of the green truck exited his vehicle under his own power, at which time a beer can fell out of the driver's door. I saw one of the firefighters working at the scene of the accident pick up the beer can and take it to another firefighter.
6. I never spoke with the driver of the Napa Truck, but I remember that the driver of the green truck told me that he was coming from his doctor's for treatment on either his back or his knee.
7. The content of this statement is true and correct to the best of my knowledge, information, and belief.

Mark Ruggiero
Signed
MARK RUGGERIO

6-28-08
Date

Exhibit "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

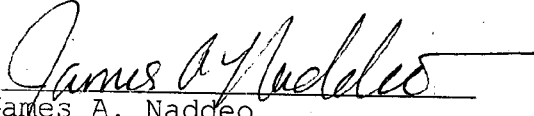
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of the Plaintiff's Third Motion in Limine was
served on the following and in the following manner on the 16th
day of July, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
Plaintiff

vs.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants

NO. 05-357-CD

ORDER

NOW, this 17th day of July, 2008, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. Jury Selection will be held on July 24, 2008 commencing at 1:00 p.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for October 27, 28 and 29, 2008 commencing at 9:00 a.m. each morning in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. All depositions which are to be used for trial presentation purposes shall be completed by absolutely no later than sixty (60) days prior to the commencement of trial or the same will not be available for use at trial. A copy of the transcript of any such deposition(s) shall be provided to opposing counsel within no more that ten (10) days following completion of the deposition(s).
4. The written report of any expert who will testify at trial which has not previously been provided to opposing counsel shall be delivered within no more than sixty (60) days prior to trial. Failure to comply will result in the witness not being available for use at trial.

FILED
012:4354
JUL 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty: Naddo
D. Vugrinovich
Gill


610

5. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than forty-five (45) days prior to the commencement of trial. All

objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall file an Answer thereto and submit its brief in opposition to said objections no later than thirty (30) days prior to the commencement of trial.

6. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than forty-five (45) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than thirty (30) days prior to trial.

BY THE COURT



FREDRIC J. AMMERMAN
President Judge

FILED

JUL 18 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/18/08

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT,
INC.,

Defendants.

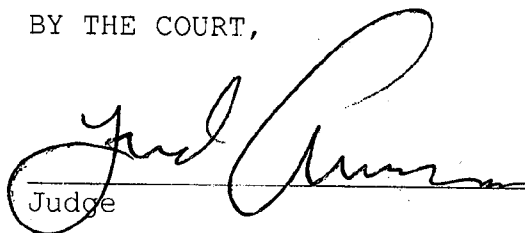
No. 05 - 357 - CD

ORDER

AND NOW this 7 day of August, 2008, upon consideration of the Plaintiff's Third Motion in Limine filed by James A. Naddeo, attorney of record for Plaintiff, it is the Order of this Court that this case will be heard before the Court on the 3rd day of September, 2008, at 10:15 A.M., at the Clearfield County Courthouse, Clearfield, Pennsylvania, Courtroom No. 1.

½ hour has been allotted for this hearing.

BY THE COURT,


Judge

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AUG 07 2008

Att. Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

FILED

AUG 07 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/7/08

X You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: August 29, 2008

FILED 2cc
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AUG 29 2008
William A. Shaw
Prothonotary/Clerk of Courts
Naddeo

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

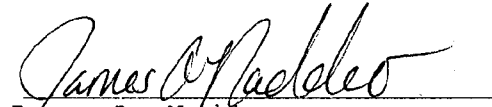
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of the Order of Court dated August 7, 2008
scheduling hearing of Plaintiff's Third Motion in Limine was
served on the following and in the following manner on the 8th day
of August, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:



James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

**PLAINTIFF'S FOURTH MOTION
IN LIMINE**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: August 29, 2008

FILED 200
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AUG 29 2008 Amy Naddeo
William A. Shaw
Prothonotary/Clerk of Courts
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

PLAINTIFF'S FOURTH MOTION IN LIMINE

NOW COMES the Plaintiff, Harold Roos, Jr., and by his attorney, James A. Naddeo, Esquire, moves this Court to enter an Order in Limine to prevent testimony by the Forensic Economist Expert, Jay K. Jarrell, concerning the following matters:

- Any and all medical opinions and conclusions regarding Mr. Roos' physical capabilities.

In support thereof Plaintiff further avers as follows:

1. On or about May 9, 2005, Plaintiff filed this civil action against defendants in the Court of Common Pleas of Clearfield County, Pennsylvania.

2. This suit arose out of a motor vehicle accident that occurred on or about June 27, 2003.

3. On or about July 8, 2008, Plaintiff received the report of Defendant's expert witness, Jay K. Jarrell.

4. In particular, Plaintiff expects expert witness, Jay K. Jarrell, to offer testimony consistent with his report offered by Defendant which is attached hereto as Exhibit "A."

5. In said report, Mr. Jarrell makes statements such as "Given his history of knee problems, the left and right artificial knees, lumbar problems and the physical demands (bending, stooping, kneeling, climbing) of his worklife long occupation, Boilermaker, it is unlikely that he would have been able to return to that occupation regardless of the MVA event on 6/27/03." This statement calls for an expert **medical** opinion and several **medical** conclusions. It is inadmissible from an individual without any medical training or expertise. Curriculum Vitae of Jay K. Jarrell is attached hereto as Exhibit "B."

6. Mr. Jarrell is not a doctor or physician. He has no medical training. Therefore, he cannot be qualified as a medical expert and cannot offer expert opinions regarding medical conclusions in this case.

WHEREFORE, Plaintiff respectfully requests this Honorable Court grant plaintiff's Motion in Limine and exclude testimony by expert witness, Jay K. Jarrell,

regarding any statements which require medical opinions and conclusions, and in particular, exclude the statement identified herein that is contained in report of Jay K. Jarrell from his testimony and from evidence at trial.

Respectfully submitted,

By James A. Naddeo
James A. Naddeo, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

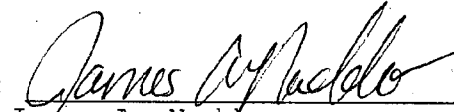
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of the Plaintiff's Fourth Motion in Limine was
served on the following and in the following manner on the 29th
day of August, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:



James A. Naddeo

Attorney for Plaintiff

Report of Jay K. Jarrell

Exhibit "A"

FORENSIC HUMAN RESOURCES

413 Sylvania Drive
Pittsburgh, PA 15229

Phone: (412) 260-8000

Fax: (412) 364-7221

May 15, 2008

Trisha A. Gill
Walsh, Collis & Blackmer, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

Dear Ms. Gill,

This report has been prepared and is submitted in response to your request for comment on the effects of injuries sustained by Harold J. Roos on 6/27/03 on his employability, earnings and earning capacity. To familiarize myself with Mr. Roos' background, I received and reviewed the following documents:

1. Plaintiff's Complaint;
2. Plaintiff's expert report from John F. Risser;
3. Plaintiff's Deposition transcript;
4. Plaintiff's Answers to Interrogatories and Responses to Request for Production of Documents including medical records from the following:
 - a. Dr. Cousins, University Orthopedic Center;
 - b. Dr. Lamb, University Orthopedic Center;
 - c. Clearfield Hospital Imaging Department;
 - d. Moshannon Valley EMS;
 - e. Open MRI;
 - f. Lewistown Hospital;
 - g. Philipsburg Area Hospital Physical Therapy;
 - h. Dr. Bruno Romeo;
 - i. James Howard; O.D.;
 - j. Centre Community Hospital;
 - k. Philipsburg Area Hospital;
 - l. University Orthopedic Center;
 - m. Gregory M. Bailey, D.O.;
 - n. Thomas Ellis, D.O.;
 - o. Thomas Ellis, D.O. (pre-accident)
 - p. John F. Perry, M.D.;
 - q. File of Mr. Roos' treatment by various Physicians of the University Orthopedics Center in State College, PA, 2/7/05 to 4/21/08.

*Expert Witness in Matters of Employability, Lost Earnings
and Diminished Earning Capacity*

5. Plaintiff's tax returns; and
6. Plaintiff's social security disability file.

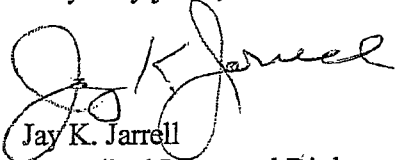
Harold J. Roos, Jr. was born on 11/26/51. He graduated from high school in 1971 and then completed a six-month certificate course in Welding and Blueprint Reading at DuBois Technical Training School. In early 1973, he became a member of the International Brotherhood of Boilermakers (Local 13), and worked at that trade until April 2003 when he presented himself for knee surgery. On 5/7/03 he underwent bilateral total knee arthroplasty. His medical history includes a minisectomy in the early 1980's, left knee arthroscopy in December 1996 and several injections of Synvisc. The file contains several references to Degenerative Joint Disease (knees) and, in a 9/27/02 note, Dr. Thomas Ellis, who had been treating Mr. Roos since 1996, referenced total knee replacements. The procedures were carried out in May 2003. Mr. Roos was in physical therapy following the surgery when injured in the 6/27/03 MVA which prompted the litigation in which you represent the Defendants, Robert W. Bish and Trimount, Inc. It must also be noted that Mr. Roos had a record of treatment for lumbar pain with a diagnosis of spandylolosis and degenerative disc disease that predates the 6/27/03 MVA.

It is important to note that Mr. Roos filed applications for Social Security Disability Benefits on 6/19/03 — a week before the MVA. Given his history of knee problems, the left and right artificial knees, lumbar problems and the physical demands (bending, stooping, kneeling, climbing) of his worklife long occupation, Boilermaker, it is unlikely that he would have been able to return to that occupation regardless of the MVA event on 6/27/03.

In his 10/5/07 Assessment of Employment Potential, Vocational Expert, John S. Risser, notes that "He (Roos) fully intended to continue with his career as a Boilermaker." Intention does not validate capability. Also, it should be noted that, in his 9/23/05 Deposition, Mr. Roos clearly answered the question of intended retirement by saying "at age 55." Thus, in any calculation of income loss, the worklife should be capped at that age, 3.42 years. Also in his calculations, Mr. Risser uses 2002 and its income of \$61,858 as the basis for his projections. That figure is \$8,942 above that of 2001. The five-year average (1998-2002) was \$47,399. Even adding the taxable income from Unemployment Compensation, the five-year average would be \$50,428. Adding to this \$50,428 figure the 29% benefit value cited by Mr. Risser, Mr. Roos' total labor economic loss over the 3.42 years would be \$222,478. Furthermore, Mr. Risser appreciates the \$61,858 by the Consumer Price Index COLA. This is not appropriate under the Pennsylvania procedure where no discounting to present value is utilized, yet a productivity increase is permissible.

The opinions expressed above have been to a reasonable degree of professional certainty as a Forensic Economist and as a Placement Specialist. Specifically, it is my opinion as a Placement Specialist with over fifty years experience that Harold Roos was disabled from his occupation as a Boilermaker before the events of 6/27/03.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jay K. Jarrell". The signature is written in dark ink and is positioned above the printed name.

Jay K. Jarrell

Accredited Personnel Diplomat

Certified Personnel Consultant

Member, National Association of Forensic Economists

JKJ/tam

Curriculum Vitae of Jay K. Jarrell

Exhibit "B"

BIOGRAPHICAL DATA

JAY K. JARRELL

239 Fourth Avenue
Suite 1917 – Investment Building
Pittsburgh, PA 15222

Ph: 412-281-8235 | Fax: 412-281-9417 | Email: jarrell11@verizon.net

EDUCATION:

University of Pittsburgh, 1959
M.A. Industrial Relations
Duquesne University, 1955
B.A. Psychology (Cum Laude)

PROFESSIONAL CERTIFICATIONS:

Certified Personnel Consultant (NAPC), 1965
Accredited Personnel Diplomat (SHRM), 1997

EMPLOYMENT CONSULTING:

Strauss Personnel Service (now Callos) 1955 - Present
1917 Investment Building, Pittsburgh, PA 15222

Strauss is a private employment service specializing in administrative, financial, technical, marketing and sales recruitment for manufacturing and commercial companies in the Greater Pittsburgh area.

The firm is a member of National Personnel Associates, a network of over 300 affiliated professional recruiting offices throughout the U.S., and Canada, and uses this outreach capability to assist companies of all sizes in their searches for specialized technical and management personnel. In like fashion, this network is used to help candidates find suitable employment in all regions of the country. Strauss also responds to requests from clients for assistance in organization planning, job analysis and description, recruitment planning, employee counseling and the conduct of labor market and salary surveys.

Recruited, screened and referred candidates for administrative, technical and sales positions from junior contributors to senior managerial level. Provided training, direction and counsel to more junior staff members. Represented the firm in a variety of trade, professional and cooperative placement organizations and progressed to Managing Partner.

Continue to provide outplacement counsel to individuals and groups as sponsored by their employers of record.

Drake Beam Morin, Inc. 1992 – 1999
3220 USX Tower, 660 Grant Street, Pittsburgh, PA 15219

Drake Beam Morin, a subsidiary of Harcourt General, is the world's largest outplacement service with over 150 offices throughout the world.

As a Senior Consultant, provided individual counseling on career transition to managers and senior level contributors sponsored by their former employers, typically major corporations with headquarters, plants or significant sales offices in the Greater Pittsburgh area.

Directed a free-standing career counseling center at ALCOA's Warwick Operations facility near Evansville, IN which assisted over 300 people in locating new employment.

Served as the Job Development Officer in the Pittsburgh Office. Maintained relationships with corporate recruiters and search firms so as to link DBM candidates with job vacancies throughout the U.S.

Conducted group workshops for employees affected by plant and office closings or downsizings. Such groups have included factory production workers, customer service representatives, bank clerical personnel and territorial sales people. Industries served have included food, chemical, steel, tobacco, advertising, financial services, computers, software and scientific instruments.

**TEACHING
EXPERIENCE:**

LaRoche College, 1984 - 2001
Adjunct Professor, Graduate Program in Human Resource Management
HRM 417 – Recruitment, Selection and Orientation

**PROFESSIONAL
ASSOCIATIONS:**

National Association of Forensic Economists 1995 – Present
National Personnel Associates (recruiter's multi-list)
President 1970-1972; Board Chairman 1972-1975, Training Director 1978-1980
Pittsburgh Human Resources Association
Director 1968-1977, 1989-1992
Society for Human Resources Management
Professional Accreditation Committee 1987-1990
Pennsylvania Association of Personnel Services (trade association)
President 1964-1966
Director 1962-1968, 1987, 1992
Pittsburgh Chapter, President 1962-1964, 1979-1981
National Association of Personnel Consultants (professional association)
Board of Regents 1965-1969
Ethics Committee 1989-1992
Commonwealth of Pennsylvania, Department of Labor and Industry
Advisor – Private Employment Agency Licensing Bureau 1973-1983

PUBLICATIONS:

Medical Care Availability, Reductions of Error Act, Lawyers Journal, 12/27/02
Human Resources - An Active Role in the Management of Smaller Business, Dynamic Business, April 1997
PPA Membership - She Ain't What He Used to Be, Pittsburgh Personnel Associate Newsletter, Dec. 1996
The Emerging Role of the Vocational Expert, Professional Education Systems, 1991
The Art of Reference Checking, Prentice Hall, 1989
Workforce 2000 - Implications for Pittsburgh, Dynamic Business, March 1986
Controlling Hiring Costs - Myths and Realities, HR News, February 1990
Code of Ethics for Professional Recruiters, adopted by the Employment Management Assn. & NAPC 1982
Cooperative Placement, NPA Training Manual, 1971, 1975, 1980
National Job Bank for Private Industry, Personnel Journal, March 1971
Pittsburgh's Unsung Growth Industry, Pittsburgh Magazine, July 1964
An Evaluation of College Recruitment Programs in Certain Representative Pittsburgh Corporations, Master Thesis, 1959
A Longitudinal Study of the Supply of and Demand for Entry Level Labor in the Pittsburgh Area, Pittsburgh Magazine, 1969-1974

Have spoken to more than 75 employer groups, technical societies, trial attorneys and professional associations on various recruitment topics and have addressed over 300 audiences of job seekers on placement topics.

AWARDS:

National Association of Personnel Consultants
Norbert I.B. Fried Ethics Award, 1989
Pennsylvania Association of Personnel Services
W.L. Blanchet Memorial Award, 1972
Chamber of Commerce of Greater Pittsburgh
Outstanding Service Award, 1976
Pennsylvania School Board Association
Outstanding Service Award, 1985

**COMMUNITY
ACTIVITIES:**

SMC / Pennsylvania Small Business
Chairman, 1994-1995
Board of Directors, Vice President, 1989-1995
Chamber of Commerce of Greater Pittsburgh
Director, 1970-1975
Vice President, Educational Affairs, 1971-1973
White House Conference on Small Business, 1995
White House Conference on Equal Employment Opportunity, 1965
Vocational Rehabilitation Center Pittsburgh
Business Advisory Committee, 1987 - Present
Indiana University of Pennsylvania
College of Business Advisory Board, 1987-2002
LaRoche College
Advisory Board – Graduate Program on Human Resources, 1991 - 1995
Intermediate Unit 1 School Board
Director, 1984-1986
Peters Township School Board
Director, 1980-1985
Citizens Advisory Committee – Washington County Planning Association
Chairperson, 1970-1980
Diocese of Pittsburgh
Family Life Council, 1988-1992
Marriage Guideline Committee, 1990-2000
St. Benedict the Abbot Church
Founder, Parish Council
Marriage Preparation Team, 1986 - Present

PERSONAL:

Date of Birth August 11, 1934
Married Dolores Scardamalia of Pittsburgh in October, 1959
Five children
Resident of Peters Township, Washington County since December, 1961

**FORENSIC
ECONOMICS:**

Respond to calls from attorneys for both Plaintiffs and Defendants in cases where employability, lost earnings or diminished earning capacity are issues. Have testified over 300 times in courts and hearing rooms in Pennsylvania, West Virginia, Ohio, New York, Maryland and North Carolina. Have prepared reports used in negotiating settlements in personal injury and employment law cases for attorneys in twelve states.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

ORDER

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: August 29, 2008

FILED

013:15/84
AUG 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

2cc
Amy
Naddeo
610

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT,
INC.,

Defendants.

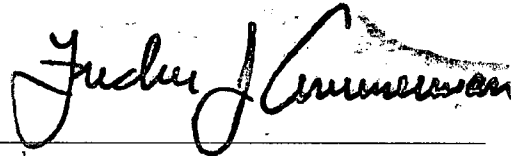
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No. 05 - 357 - CD

ORDER

AND NOW this 29th day of AUGUST, 2008, upon
consideration of the Plaintiff's Fourth Motion in Limine filed
by James A. Naddeo, attorney of record for Plaintiff, it is the
Order of this Court that this case will be heard before the
Court on the 3rd day of September, 2008, at 10:15 A..M.,
at the Clearfield County Courthouse, Clearfield, Pennsylvania,
Courtroom No. 1.

BY THE COURT,



Judge

FILED

AUG 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 8/29/08

X You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

HAROLD J. ROOS, JR.

-VS-

ROBERT W. BISH AND
TRIMOUNT, INC.

:
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:
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No. 05-357-CD

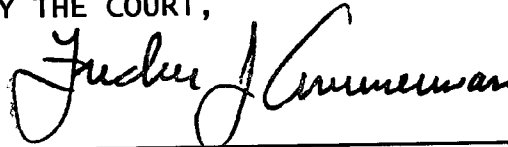
O R D E R

AND NOW, this 3rd day of September, 2008,
following argument on the Plaintiff's Third Motion in Limine,
it is the ORDER of this Court as follows:

1. Counsel for both parties agree that the
statement of Mark Ruggerio that "At which time a beer can
fell out of the driver's door" is inadmissible. Therefore,
the Motion in Limine is granted as to the said statement,
which shall not be admissible at the time of trial;

2. The Motion in Limine is granted to the extent
that counsel agree that the statement of Mark Ruggerio, dated
June 28, 2008, shall only be admissible at the time of jury
trial to use to impeach the potential testimony of State
Trooper Thomas Granville.

BY THE COURT,



President Judge

FILED

SEP 04 2008

2cc Arty:
Naddeo
Vugrinovich/Gill
(60)

William A. Shaw
Prothonotary/Clerk of Courts

FILED

SEP 04 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/4/08

 You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**DEFENDANTS' OBJECTIONS TO
DEPOSITION TESTIMONY OF
THOMAS J. ELLIS, D.O.**

Filed on Behalf of the Defendants

Counsel of Record for These Parties:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

11:12 a.m. GK

SEP 12 2008 NOCL

William A. Shaw
Prothonotary/Clerk of Courts

(GK)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

DEFENDANTS' OBJECTIONS TO DEPOSITION
TESTIMONY OF THOMAS J. ELLIS, DO.

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, PC, and Trisha A. Gill, Esquire, and file the following Objections to Deposition Testimony of Thomas J. Ellis, DO and aver as follows:

I. STATEMENT OF THE FACTS

This suit arises out of a motor vehicle accident that occurred on or about June 27, 2003, on State Route 53 in Morris Township, Clearfield County, Pennsylvania. As a result of this accident, Plaintiff claims damages for a variety of injuries, including those to the chest, knee, and lumbar and cervical spine. Plaintiff also seeks damages for past, present, and future pain and suffering, privation, inconvenience, medical expenses, lost wages, and impairment of earning power.

In his Pre-Trial Memorandum, Plaintiff alleges that he was recovering from knee replacement surgery and "was expected to have a complete and successful recovery" at the time of the accident. However, he further alleges that injuries sustained in the accident made him unable to engage in his regular household duties or return to work

as a boilermaker. In support of these allegations, Plaintiff identified Thomas J. Ellis, DO as a witness to be called at trial. (See Plaintiff's Pre-Trial Memorandum, a copy of which is attached hereto as Exhibit "A"). Dr. Ellis has treated Plaintiff as an orthopedic surgeon since 1996. On December 30, 2005, he authored a report to Plaintiff's counsel wherein he opined that:

1. the soft tissue healing component of Plaintiff's May 7, 2003 total knee arthroplasty was "clearly slowed and compromised" by the accident, though there was "no evidence that the implants were broken or detached or had come lose at that time;"
2. the accident "clearly slowed down the entire healing process [of the total knee arthroplasty] due to a trauma in the postoperative period," which "lengthened the overall recovery period;"
3. it is "unlikely that the impairment will be permanent due to such;" and,
4. the accident "will clearly lengthen the time of physical therapy and overall healing," and that Plaintiff "is clearly going to be limited with regard to no stooping, bending, kneeling, crawling, or climbing activities," making him unable "to carry weight in excess of probably 15 pounds."

(See Ellis report of December 30, 2005, a copy of which is attached hereto as Exhibit "B"). Nowhere in this report does Dr. Ellis address whether Plaintiff will be able to return to work as a boilermaker. On September 21, 2007, Dr. Ellis authored a short, supplemental report wherein he opined that "direct trauma from the motor vehicle accident" caused "additional soft tissue swelling, fibrous, and some scarring about [Plaintiff's] knees that have hindered [Plaintiff's] recovery in his postoperative course." (See Ellis report of September 21, 2007, a copy of which is attached hereto as Exhibit "C"). Again, Dr. Ellis did not address whether Plaintiff will be able to return to work as a boilermaker because of this motor vehicle accident. Furthermore, at no time does Dr.

Ellis address the Independent Medical Examination performed by Dr. John F. Perry on June 16, 2006.

On July 21, 2008, Dr. Ellis was deposed. During the deposition, Defendants objected to questions by Plaintiff and testimony by Dr. Ellis in which he ultimately opined that Plaintiff is unable to return to work as a boilermaker because his bilateral knee replacement surgery "was exacerbated by the post-op motor vehicle injury." (See relevant portions of Dr. Ellis's Deposition Transcript, copies of which are attached hereto as Exhibit "D"). Dr. Ellis was also questioned, over objection, about Dr. John Perry, an orthopedic surgeon retained by Defendants to perform an Independent Medical Examination. Defendants will not call Dr. Perry at time of trial. Pursuant to Order of court entered on July 18, 2008, Defendants hereby submit these objections in written form with the required legal support as follows.

II. ARGUMENT

A. *Dr. Ellis's Testimony Regarding Plaintiff's Ability to Work Should Be Precluded Because it is Outside the Fair Scope of His Report*

Pursuant to the Rules of Civil Procedure, an expert's trial testimony may not be inconsistent with or go beyond the fair scope of his or her testimony in proceedings as set forth in his deposition, answer to an interrogatory, separate report, or supplement thereto. Pa.R.C.P. 4003.5(a)(1), (2). It is the province of the trial court to determine whether an expert's trial testimony falls within the fair scope of his pre-trial report. *Feden v. Consolidated Rail Corp.*, 746 A.2d 1158 (Pa. Super. 2000). The court must determine "whether the report provides sufficient notice of the expert's theory to enable the opposing party to prepare a rebuttal witness." *Id* citing *Tiburzio-Kelly v. Montgomery*, 681 A.2d 757 (Pa. Super. 1996). See also *Jones v. Constantino*, 631 A.2d 1289 (Pa.

Super. 1993). The Superior Court has noted that the "accent is on the word 'fair,'" meaning that, "The question to be answered is whether, under the particular facts and circumstances of the case, the discrepancy between the expert's pre-trial report and his trial testimony is of a nature which would prevent the adversary from making a meaningful response, or which would mislead the adversary as to the nature of the appropriate response." *Id.* quoting *Chanthavong v. Tran*, 682 A.2d 334 (Pa. Super. 1996)(citations omitted). If the deviation between the matters disclosed during discovery and the expert's testimony at trial causes surprise or prejudice to the opposing party, preclusion of the testimony is proper. *Tiburzio-Kelly*, 681 A.2d 757.

Because Dr. Ellis's reports never address whether Plaintiff's alleged injuries will ultimately affect his ability to return to work as a boilermaker, Defendants objected to Dr. Ellis's testimony on the grounds that it was beyond the fair scope of his expert report. Dr. Ellis testified that the accident "hindered" Plaintiff's ability to return to work:

Q (Mr. Naddeo): When is the last time you saw [Plaintiff]?

A(Dr. Ellis): April 21st of 2008.

Q: And, Doctor, you've been treating him, I understand, since 1996?

A: Yes.

Q: Through April of this year?

A: Yes.

Q: What were his complaints in April of this year?

A: He had complaints of lateral knee pain and he also had a left locking trigger thumb.

Q: Did you recommend any treatment for those conditions?

A: We did. Therapy for his knees and I also placed him in a MCL hinge brace.

Q: Is that a hinge brace?

A: It is a particular type of brace that has a hinge on the side for stabilization and support.

Q: Doctor, do you have an opinion as to what effect the automobile accident had on [Plaintiff's] ability to return to his regular employment?

MS. GILL: Objection. It's beyond the scope of his report.

Q: You can answer the question.

A: I think it hindered his ability to return to work.

(See Exhibit "D," pages 13-14, lines 25; 1-25) (emphasis added). Ultimately, Dr. Ellis expanded upon his reported opinion that trauma from the accident "hindered [Plaintiff's] recovery in his postoperative course," and concluded that this trauma made him entirely unable to work:

Q: Do you have an opinion as to the cause of his inability to return to that employment?

MS. GILL: The same objection.

A: I think the cause is directly related to the fact he had bilateral knee replacement surgery which was exacerbated by the post-op motor vehicle injury.

(See Exhibit "D," page 15, lines 7-14)(emphasis added).

As noted in *Jones v. Constantino*, Rule 4003.5 does not permit an expert to make a bald conclusion in his report and then proffer a more in-depth theory at the time of trial. 631 A.2d 1289. The Superior Court has specifically rejected any notion that, "the discovery rules relating to expert witnesses are meant to afford only enough discovery to prevent tactical surprise." *Id.* It reasoned that "Rule 4003.5 favors the

liberal discovery of expert witnesses and disfavors unfair and prejudicial surprise,” and that allowing an expert to grossly expand and flesh out his theory at trial would be akin to “sanctioning ambiguity and avoidance in separate reports.” Thus, a party’s pre-trial expert report must “apprise the opposing party of the basis for the expert’s ultimate conclusion.” *Id.* citing *Havasy v. Resnick*, 609 A.2d 1332 (Pa. Super. 1992).

Here, Dr. Ellis’s reports merely state that the accident “slowed down” Plaintiff’s process of healing from his May 7, 2003 total knee arthroplasty. (See Exhibit “B”). In fact, even when he wrote a supplemental report to “clarify the situation,” he expressly limited his opinion to Plaintiff’s postoperative recovery when he stated that, “due to the nature of the blunt trauma this caused additional soft tissue swelling, fibrous, and some scarring about his knees that have hindered his recovery in his postoperative course.” (See Exhibit “C”). At no time does Dr. Ellis address “what effect the automobile accident had on [Plaintiff’s] ability to return to his regular employment,” “whether [Plaintiff] could return to his previous employment,” or “the cause of [Plaintiff’s] inability to return to that employment.” (See Exhibit “D,” pages 15-16).

Furthermore, Dr. Ellis’s reports never address the treatment that he gave to Plaintiff on April 21, 2008. Thus, Defendants objected to Dr. Ellis’s testimony that his April 21, 2008 examination of Plaintiff (which his supplemental report pre-dates by more than six (6) months) supported his opinion that Plaintiff is currently unable to return to work:

Q: Based on the examination you made of the patient in April of this year, do you have an opinion as to whether he could return to his previous employment?

MS. GILL: The same objection.

A: At the time I saw him in April he was not capable of returning to his previous type of job.

(See Exhibit "D," page 15, lines 1-6) (emphasis added). For the same reasons that Dr. Ellis's testimony regarding Plaintiff's inability to work should be precluded, so should any reference to or testimony by Dr. Ellis regarding this April 21, 2008 treatment and its effect on Dr. Ellis's ultimate opinion of Plaintiff's condition. Pa.R.C.P. 4003.5(a)(1), (2).

The admission of these portions of Dr. Ellis's testimony would run afoul of the intent of Rule 4003.5. Defendants were unfairly surprised and ultimately prejudiced by questions and opinions that addressed whether Plaintiff would be unable to work, as well as treatment that took place long after Dr. Ellis's reports were written. Dr. Ellis had only indicated that Plaintiff's overall recovery period was lengthened by the accident, he never addressed whether Plaintiff would be unable to work. In fact, in his December 30, 2005 report, he noted that, "I think it is unlikely that the impairment will be permanent due to such." (See Exhibit "B"). To permit Dr. Ellis to expand his opinion at trial so that it now includes opinions regarding Plaintiff's inability to work would forever sanction the ambiguity in his reports and unfairly prejudice the Defendants. Defendants' objections must be sustained, and the referenced testimony must be precluded.

B. *Dr. Ellis's Testimony Regarding the Independent Medical Examination performed by Dr. Perry Should Be Precluded Because it is Outside the Fair Scope of His Report*

Because Dr. Ellis's reports never address the IME performed by Dr. Perry on June 16, 2006, Defendants objected to Dr. Ellis's testimony related to this IME on the grounds that it was beyond the fair scope of his expert report. Dr. Ellis testified that he briefly reviewed Dr. Perry's IME report, and then proceeded to offer his opinions on its contents. (See Exhibit "D," pages 15-17). During this line of questioning, he proceeded

to explain the portions of Dr. Perry's IME report with which he did not agree. However, Dr. Ellis does not reference the Dr. Perry, the IME, the IME report, or any of the opinions or conclusions expressed within either of his reports. For the reasons outlined above, he may not be permitted to reference these opinions or conclusions now. Pa.R.C.P. 4003.5(a)(1), (2). Defendants' objections must be sustained, and the referenced testimony must be precluded.

C. *Dr. Ellis's Testimony Regarding the Professional Reputation of Dr. John F. Perry Should Be Precluded Because it is Outside the Fair Scope of His Report*

For the same reasons cited above, Dr. Ellis's testimony as it relates to the professional reputation of Dr. John F. Perry, the orthopedic surgeon who performed an Independent Medical Examination ("IME") of Plaintiff, must also be precluded. Defendants' objections must be sustained, and the referenced testimony must be precluded. This testimony, in relevant part, reads as follows:

Q: Are you familiar with any physicians who do IMEs as a – pretty much as a profession, a professional witness?

A: Yes.

Q: Would that include Dr. Perry?

MS. GILL: Objection.

A: Yes.

Q: Were you aware that Dr. Perry was determined in this case by a Court ---

MS. GILL: Objection.

Q: -- to be a professional witness?

MS. GILL: Objection. This is beyond the scope of --

A: No, but you just asked about his money, so we're going to clear it up.

Q: Are there doctors who do IMEs basically for a living instead of treating patients?

A: Correct.

Q: Would that include Dr. Perry?

A: Yes, it would.

Q: Are you an IME physician or a treating physician?

A: No, I'm a treating physician.

(See Exhibit "D," pages 29-30, lines 8-25; 1-11)(emphasis added). Dr. Ellis did not address Dr. Perry, his reputation, or the IME in either of his reports. Permitting him to expand upon the opinions expressed in his reports so that they now include Dr. Ellis's take on Dr. Perry's practice and the IME he performed, even though he had totally ignored them up until the time of his deposition, would unfairly prejudice the Defendants. For this reason, this testimony should be precluded. Alternatively, any reference to Dr. Perry or his report should be precluded because Dr. Perry's report is hearsay and Dr. Ellis's testimony in its regard lacks a proper evidentiary foundation.

D. *Dr. Ellis's Testimony Regarding Dr. Perry's IME Report and Opinions Should Be Precluded Because it is Hearsay*

Experts may not state a conclusion which is based on evidence not in the record. *Commonwealth v. Thomas*, 282 A.2d 693 (Pa. 1971) citing *Murray v. Siegel*, 195 A.2d 790 (Pa. 1963). Dr. Perry will not be called as a witness at trial. Since his IME report and any reference to its contents would be "in-court evidence of an out-of-court declaration... offered to show the truth of the out-of-court assertion," the IME report or

testimony related to it is inadmissible hearsay. *Woodard v. Chatterjee*, 827 A.2d 433 (Pa. Super. 2003).

Here, Dr. Ellis testified that he briefly reviewed Dr. Perry's IME report before offering his opinions on its contents:

Q: Doctor, prior to your deposition you had an opportunity to review a report authored by a Dr. William Perry[sic]?

MS GILL: I'm going to object to any questions regarding Dr. Perry's report; it's hearsay and there is no foundation.

A: Yeah, I briefly just looked at this (indicating).

(See Exhibit "D," page 15, lines 16-23)(emphasis added). This line of questioning continued, and Dr. Ellis was questioned about whether he agreed with conclusions reached by Dr. Perry in his IME report:

Q: Okay. Doctor, I'm asking only in reference to those parts of [Plaintiff's] anatomy that you treated, specifically his knees.

A: No, not entirely.

MS. GILL: Can I have an ongoing objection regarding questioning Dr. Perry and –

MR. NADDEO: Yes.

(See Exhibit "D," page 16, lines 2-12)(emphasis added). Dr. Ellis then explained that he disagreed with Dr. Perry's opinion insofar as:

A: [Dr. Perry is] saying here...Mr. Roos had contusions of both knees following the motor vehicle accident. I agree. I can find no evidence from the chart to indicate he had any other significant injuries at that time. His knees have recovered from the contusions. I agree they have completely recovered from the contusions. [Dr. Perry] goes on to say that the symptoms with regard to these are related to his surgery and weight.

I would agree that the symptoms are due to the surgery, but I also think the motor vehicle accident contributed in causing some scarring and

stiffness in his knees. It was more than would have been present had the accident not occurred.

(See Exhibit "D," pages 16-17; lines 15-25; 1-10). However, the report itself is inadmissible hearsay, for Dr. Perry will not testify at trial. Thus, any reference to or testimony regarding Dr. Perry's IME or his report is inadmissible, and must therefore be precluded. *Woodard*, 827 A.2d 433 (Pa. Super. 2003). Dr. Ellis may not act as a "mere conduit or transmitter of the content of an extrajudicial source." *Primavera v. Celotex Corp.*, 608 A.2d 515 (Pa. Super. 1992). He cannot simply repeat Dr. Perry's findings then cursorily disagree with them. Allowing him to do so would erroneously permit Dr. Ellis to bootstrap Dr. Perry's opinions to his own testimony in an attempt to give his own opinions more credence. *DeMayo v. Schmitt*, 1990 WL 902397 (Phil. Co. Com. Pl.). See also *Commonwealth v. Smith*, 861 A.2d 892 (Pa. 2004).

III. CONCLUSION

For the foregoing reasons, Defendants' objections to Dr. Ellis's testimony must be sustained. Plaintiff must be precluded from referencing or entering into evidence any testimony by Dr. Ellis related to Plaintiff's ability to work, Dr. Perry's professional reputation, or Dr. Perry's IME report, specifically that which is transcribed on the following pages:

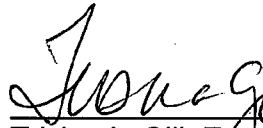
- a. Page 13, line 25;
- b. Page 14, lines 1-25;
- c. Page 15, lines 1-25;
- d. Page 16, lines 1-25;
- e. Page 17, lines 1-10;
- f. Page 29, lines 8-25; and

g. Page 30, lines 1-11.

Respectfully submitted,

Walsh, Collis & Blackmer, P.C.

By

A handwritten signature in black ink, appearing to read "Trisha A. Gill", is written over a horizontal line.

Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

PRE-TRIAL MEMORANDUM

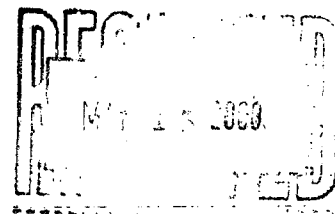
Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: May 12, 2008



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

PRE-TRIAL MEMORANDUM

I. Factual Statement.

Plaintiff and Defendant, Robert W. Bish, were involved in a car accident on State Route 53 on June 27, 2003. On said date, Mr. Bish failed to negotiate a turn in the roadway, crossed over the centerline and into the lane of Plaintiff and collided with Plaintiff's vehicle. At the time of the accident Plaintiff was recovering from knee replacement surgery and was expected to have a complete and successful recovery. As a result of the accident, Plaintiff suffered numerous serious injuries for which medical treatment was and is required. As a result of the injuries sustained in the accident, Plaintiff was unable to engage in his regular household duties; Plaintiff lost wages and impairment of his earning power and will continue to incur medical costs in the future to treat his injuries. Plaintiff

seeks compensation for his injuries, pain and suffering and all loss sustained as a result of the accident caused by Defendant.

II. Exhibits.

A. Medical Records as follows:

1. Thomas J. Ellis, DO
101 Regent Court
State College, PA 16801
2. Philipsburg Hospital
210 Lochlomand Road
Philipsburg, PA 16866
3. Jyotish Grover, M.D.
Lewistown Hospital, Pain Clinic
400 Highland Avenue
Lewistown, PA 17044
4. Todd B. Cousins, DO
University Orthopedic Center
101 Regent Court
State College, PA 16801
5. Gregory M. Bailey, DO
University Orthopedic Center
101 Regent Court
State College, PA 16801
6. Bruno Romeo, M.D.
820 Turnpike Avenue
Clearfield, PA 16830

B. 1998 thru 2006 IRS Individual Tax Returns of Mr. Roos

C. Social Security Administration Earnings Record of Mr.
Roos

D. Boilermakers National Health and Welfare Fund -

subrogation record and medical expense summary

- E. Boilermakers National Health and Welfare Fund Declaration of Trust
- F. Boilermakers National Health and Welfare Fund letter of March 28, 2005
- G. IRS letter of April 25, 1968 to Boilermakers National Health and Welfare Fund
- H. Boilermakers National Health and Welfare Plan (effective January 2001)
- I. Boilermaker Annuity Trust Statements
- J. Boilermaker Pension Trust Statements
- K. Boilermaker Job Description
- L. Assessment of Employment Potential by JSR Vocational & Consulting Services
- M. Curriculum Vitae of John S. Risser
- N. Photographs of damaged vehicles
- O. Photographs of Plaintiff
- P. Check receipts from CNB Bank from the account of Plaintiff for payment of medical expenses (9)
- Q. Any and all exhibits listed in Defendant's Pretrial Memorandum

III. Witnesses.

- A. John S. Risser, 5062 Ridge Road, Elizabethtown, PA

B. Harold Roos, Jr., 2345 Rolling Stone Road, Morrisdale,
PA 16858-9002

C. Joseph M. Murray, Business Manager of Boilermakers
Lodge No. 13, 2300 New Falls Road, Newportville, PA
19056

D. Thomas J. Ellis, DO, 101 Regent Court, State College,
PA 16801

E. Gregory M. Bailey, DO, University Orthopedic Center,
101 Regent Court, State College, PA 16801

F. Tonya Pavalec, Boilermakers National Health & Welfare
Fund, 754 Minnesota Avenue, Suite 522, Kansas City, KS
66101

G. Kim Sanders, Boilermakers National Health & Welfare
Fund, 754 Minnesota Avenue, Suite 522, Kansas City, KS
66101

H. Any and all witnesses listed in Defendant's Pretrial
Memorandum

IV. Legal Theory & Citation.

Plaintiff's claim is based on the negligent operation of a motor vehicle. Plaintiff contends that Defendant violated certain rules of the road as set forth in the Pennsylvania Motor Vehicle Code. Those violations were the proximate cause of the accident and are therefore negligence per se.

Plaintiff was not contributory negligent.

V. Damages.

A. Liquidated Damages: lost income (please refer to report of John S. Risser), replacement services (please refer to report of John S. Risser), medical bills and expenses paid by Plaintiff, ERISA subrogation claim

B. Unliquidated Damages: pain and suffering

VI. Extraordinary Evidentiary Problems.

None.

VII. Stipulations.

A. Parties will stipulate that the Defendant, Robert W. Bish was negligent and that said negligence caused the accident.

VIII. Special Points for Charge.

None. Plaintiff requests the standard charges regarding lost income, lost services and pain and suffering.

IX. Estimated Time for Trial.

Two (2) days.

X. Reservations.

Plaintiff reserves the right to supplement this memorandum as may be necessary prior to trial.

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF INDIANA COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff,

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation
Defendant.

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No. 05 - 357 - CD

Certificate of Service

I, James A. Naddeo, attorney for the plaintiff, do
hereby certify that a copy of Plaintiff's Pre-Trial Memorandum
was served on the following parties this 12th day of May, 2008:

First Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff



COPY JAN 09 2006

Kenneth L. Cherry, MD

Douglas E. Roesch, MD

Edwin J. Rogusky, MD

Thomas J. Ellis, DO

Paul V. Suhey, DO

James S. Martin, MD

David M. Joyner, MD

Todd B. Cousins, DO

G. M. Bailey, DO

William A. Tyndall, MD, PhD

Bradley A. Barter, DO

Keith M. Zora, DO

Jack-F. Rocco, MD

Christopher S. McClellan, DO

Paul D. Lamb, DC

December 30, 2005

Attorney James A. Naddeo
207 East Market Street
PO Box 552
Clearfield, PA 16830

RE: HAROLD J. ROOS, SR.
DATE OF ACCIDENT: 06-27-03

Dear Attorney Naddeo:

This letter is in response to your letter dated October 17, 2005, regarding your client and my patient, Harold J. Roos, Sr. As you know Mr. Roos underwent previous knee arthroscopies and subsequently underwent total knee arthroplasty on May 7, 2003. He underwent uncomplicated total knee arthroplasty using a Salzer implant. His postoperative course was proceeding as expected when he was involved in a motor vehicle accident on June 27, 2003. At that time, his knees had struck the dashboard of the vehicle.

In response to Question #1, the soft tissue healing component of the surgery was clearly slowed and compromised at that particular period of time. There is no evidence that the implants were broken or detached or had come loose at that time, though.

Question #2 – The motor vehicle accident from June of 2003 clearly slowed down the entire healing process due to a trauma in the postoperative period. It is my opinion that this lengthened the overall recovery period.

Question #3 – I think it is unlikely that the impairment will be permanent due to such.

Question #4 – Yes it does. I think this will clearly lengthen the time of physical therapy and overall healing. He is clearly going to be limited with regard to no stooping, bending, kneeling, crawling, or climbing activities. He would not be able to carry weight in excess of probably 15 pounds.

101 Regent Court State College
2525 9th Avenue Suite
12 North Dorcas Street

FAX (814) 231-8569
(4) 949-4050
(7) 242-1522

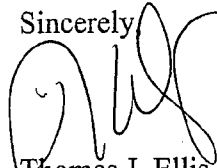


Attorney James A. Naddeo
RE: HAROLD J. ROOS, SR.
December 30, 2005
Page 2

All opinions are based upon a reasonable degree of medical certainty.

If I can be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely

A handwritten signature in black ink, appearing to be 'TJ Ellis', written over the word 'Sincerely'.

Thomas J. Ellis, DO

TJE/ram



September 21, 2007

Kenneth L. Cherry, MD

Douglas E. Roscher, MD

Edwin J. Rogusky, MD

Thomas J. Ellis, DO

Paul V. Sulley, DO

James S. Martin, MD

David M. Joyner, MD

Todd B. Cousins, DO

G. M. Bailey, DO

William A. Tyndall, MD, PhD

Bradley A. Benter, DO

Keith M. Zora, DO

Jack F. Rocco, MD

Christopher S. McClellan, DO

Paul D. Lamb, DC

James A. Naddo
Naddo & Lewis, LLC
207 East Market Street
PO Box 552
Clearfield, PA 16830

RE: Harold J. Roos, Sr.
DOB: 11/26/51
Automobile Accident: 6/27/03

Dear Attorney Naddo:

Mr. Roos as you know underwent an uncomplicated total knee arthroplasty on May 7, 2003. He was subsequently involved in a motor vehicle accident on June 27, 2003. He at that time had struck his knees on the dashboard. It was my opinion at that time and continues to be my opinion that due to the nature of the blunt trauma this caused additional soft tissue swelling, fibrous, and some scarring about his knees that have hindered his recovery in his postoperative course. This was due to the direct trauma from the motor vehicle accident and was above and beyond what would be normally considered postsurgical trauma from the total knee arthroplasty.

I hope this further clarifies the situation. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Thomas J. Ellis, D.O.

TJE/rkm

101 Regent Court State College, PA 16801 (814) 231-2101
476 Rolling Ridge Drive State College, PA 16801 FAX (814) 231-8569
1505 9th Avenue Altoona, PA 16602 (814) 945-4050
12 North Dorcas Street Lewistown, PA 17044 (717) 248-4664



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IN THE COURT OF COMMON PLEAS
OF
CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,	:	
an individual,	:	
Plaintiff	:	CIVIL DIVISION
-vs-	:	NO. 2005-357-CD
ROBERT W. BISH and	:	
TRI MOUNT, INC., a corporation,	:	
Defendant	:	

PROCEEDINGS:	Deposition of THOMAS JAMES ELLIS, D.O.
DATE:	Monday, July 21, 2008 7:15 - 8:00 a.m.
PLACE:	University Orthopedics Center 101 Regent Court State College, PA 16801
REPORTED BY:	Maryann Cornelius Freelance Court Reporter Notary Public

MARYANN CORNELIUS
Freelance Court Reporter
339 Southmont Boulevard
Johnstown, PA 15905
(814) 536-7405
or
(814) 241-2121



1 than average recovery?

2 A Typical length of recovery you can usually tell in
3 -- usually knee replacements take a year to recover, even a
4 year to two. If it's better than a year, one to two years,
5 and it may fluctuate or plateau, and then at that point that's
6 what they tend to live with.

7 Q Now during that first year of recovery, would a
8 person be able to perform the duties of employment comparable
9 to what Mr. Roos did, at least as you understood those duties?

10 A Some people may and others may not depending upon
11 how fast they -- they particularly recover.

12 Q Okay. To what extent did the auto accident impact
13 Mr. Roos's recovery?

14 A It seemed he went backwards about half.

15 Q Which in terms of time for recovery would do what?

16 A It would increase his whole process; meaning, it may
17 double his earlier-on recovery, his realized recovery. Each
18 week continues to get better in the first two months after
19 surgery, and usually more gains are made during the last six
20 to nine months. As far as -- most patients tend to be -- will
21 continue quicker at first and then will slow down in their
22 progress during the initial steep curve. And that part of his
23 recovery, that was clearly going to be lengthened, if you
24 will, by this new trauma to his newly traumatized knees.

25 Q When is the last time you saw this patient?

1 A April 21st of 2008.

2 Q And, Doctor, you've been treating him, I understand,
3 since 1996?

4 A Yes.

5 Q Through April of this year?

6 A Yes.

7 Q What were his complaints in April of this year?

8 A He had complaints of lateral knee pain and he also
9 had a left locking trigger thumb.

10 Q Did you recommend any treatment for those
11 conditions?

12 A We did. Therapy for his knees and I also placed him
13 in a MCL hinge brace.

14 Q Is that a hinge brace?

15 A It is a particular type of brace that has a hinge on
16 the side for stabilization and support.

17 Q Doctor, do you have an opinion as to what effect the
18 automobile accident had on Mr. Roos's ability to return to his
19 regular employment?

20 MS. GILL: Objection. It's beyond the scope of his
21 report.

22 MR. NADDEO: You can answer the question.

23 THE WITNESS: I think it hindered his ability to
24 return to work.

25 BY MR. NADDEO:

1 Q Based on the examination you made of the patient in
2 April of this year, do you have an opinion as to whether he
3 could return to his previous employment?

4 MS. GILL: The same objection.

5 THE WITNESS: At the time I saw him in April he was
6 not capable of returning to his previous type of job.

7 BY MR. NADDEO:

8 Q Do you have an opinion as to the cause of his
9 inability to return to that employment?

10 MS. GILL: The same objection.

11 THE WITNESS: I think the cause is directly related
12 to the fact he had bilateral knee replacement surgery
13 which was exacerbated by the post-op motor vehicle
14 injury.

15 BY MR. NADDEO:

16 Q Doctor, prior to your deposition you had an
17 opportunity to review a report authored by a Dr. William
18 Perry?

19 MS. GILL: I'm going to object to any questions
20 regarding Dr. Perry's report; it's hearsay and there is
21 no foundation.

22 THE WITNESS: Yeah, I briefly just looked at this
23 (indicating).

24 BY MR. NADDEO:

25 Q You did review his conclusions?

1 A Yes.

2 Q Do you agree with those conclusions?

3 A Well, some of the conclusions are related to parts
4 of Mr. Roos's anatomy for things that I was not treating.

5 Q Okay. Doctor, I'm asking only in reference to those
6 parts of Mr. Roos's anatomy that you treated, specifically his
7 knees.

8 A No, not entirely.

9 MS. GILL: Can I have an ongoing objection regarding
10 questioning Dr. Perry and --

11 MR. NADDEO: Yes.

12 MS. GILL: Thank you.

13 BY MR. NADDEO:

14 Q In what respect do you disagree with him?

15 A I'm reading from -- he's saying here (indicating),
16 in my opinion it is --- as being a result of the motor vehicle
17 accident, there were no complaints of cervical spine -- let me
18 back up.

19 Mr. Roos had contusions of both knees following the
20 motor vehicle accident. I agree. I can find no evidence from
21 the chart to indicate he had any other significant injuries at
22 that time. His knees have recovered from the contusions. I
23 agree they have completely recovered from the contusions. He
24 goes on to say that the symptoms with regard to these are
25 related to his surgery and his weight.

1 I would agree that the symptoms are due to the
2 surgery, but I also think the motor vehicle accident
3 contributed in causing some scarring and stiffness in his
4 knees. It was more than would have been present had the
5 accident not occurred.

6 Q Doctor, have the opinions that you've expressed
7 during the course of your testimony been expressed within a
8 reasonable degree of medical certainty?

9 A Yes.

10 Q Okay.

11 MR. NADDEO: I have no further questions.

12 MS. GILL: Before I start to ask you questions,
13 could I look at the Doctor's chart.

14 (Ms. Gill reviews chart.)
15

16 CROSS-EXAMINATION

17 BY MS. GILL:

18 Q Good morning, Doctor.

19 A Good morning.

20 Q You've been treating Mr. Roos for his knee problems
21 as far back as 1996?

22 A Correct.

23 Q Okay. And I believe you testified that in December
24 of '96 he first came to you complaining of bilateral knee
25 pain?

1 A I'm not sure exactly. I know it's probably a couple
2 thousand dollars, I'm assuming.

3 MS. GILL: Thank you. That's all I have.

4 MR. NADDEO: A couple of questions.

5

6 REDIRECT EXAMINATION

7 BY MR. NADDEO:

8 Q Do you do IMEs?

9 A I have on a very rare occasion.

10 Q Can you tell us what an IME is?

11 A An independent medical evaluation?

12 Q Yes.

13 A Basically a review of a patient's case and physical
14 examination and rendering an opinion as to what you think.

15 Q Are you familiar with any physicians who do IMEs as
16 a -- pretty much as a profession, a professional witness?

17 A Yes.

18 Q Would that include Dr. Perry?

19 MS. GILL: Objection.

20 THE WITNESS: Yes.

21 BY MR. NADDEO:

22 Q Were you aware that Dr. Perry was determined in this
23 case by a Court --

24 MS. GILL: Objection.

25 MR. NADDEO: -- to be a professional witness?

1 MS. GILL: Objection. This is beyond the scope of --

2 MR. NADDEO: No, but you just asked about his money,
3 so we're going to clear it up.

4 BY MR. NADDEO:

5 Q Are there doctors who do IMEs basically for a living
6 instead of treating patients?

7 A Correct.

8 Q Would that include Dr. Perry?

9 A Yes, it would.

10 Q Are you an IME physician or a treating physician?

11 A No, I'm a treating physician.

12 Q And you've treated this man since 1996?

13 A Correct.

14 Q Can you think -- is there anybody in the world who
15 would know more about his knees than you?

16 A No.

17 Q Would it be possible for anyone else in the world to
18 know more about his knees than you?

19 A No.

20 Q Okay. Now you were asked whether you were being
21 paid for this deposition, correct?

22 A Correct.

23 Q And you are?

24 A I'm assuming I am.

25 Q It's not the part that you handle?

1 A Honestly, I don't know how much I get paid because I
2 think a deposition price changes whether it's a video
3 deposition or whatever. All I do know is that one of the
4 policies that we have is that -- 'cause I really don't like to
5 do depositions so we try to not do them unless it's absolutely
6 necessary.

7 Q Right.

8 A And so I know that if I'm in this room on a Monday
9 morning, the only way that that happened is that Betsy made
10 sure that somebody paid for me to be here.

11 Q Okay. Do you have any vested interest in the
12 outcome of this case because of the amount you've been paid?

13 A No.

14 Q Do you stand to gain anything from the outcome of
15 this case?

16 A No. I'm just trying to tell the truth of what is
17 happening.

18 Q Okay. Doctor, with respect to the office note of
19 July 2nd, 2003, could you go back to that for me, please.

20 A That's the one I don't have.

21 (Witness provided with a copy.)

22 BY MR. NADDEO:

23 Q Now, I would like to cover some of the parts that
24 Defense Counsel overlooked, okay, specifically the x-ray exam.
25 Would you read the result of the x-ray exam for me?

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2008, the Defendants' Objections to the Deposition Testimony of Thomas J. Ellis, DO, are SUSTAINED. The following excerpts of Dr. Ellis's testimony are hereby STRICKEN and PRECLUDED from being referenced or admitted into evidence at time of trial:

- a. Page 13, line 25;
- b. Page 14, lines 1-25;
- c. Page 15, lines 1-25;
- d. Page 16, lines 1-25;
- e. Page 17, lines 1-10;
- f. Page 29, lines 8-25; and
- g. Page 30, lines 1-11.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **DEFENDANTS'**
OBJECTIONS TO DEPOSITION TESTIMONY OF THOMAS J. ELLIS, DO. has been
mailed to counsel of record via U.S. first class mail, postage pre-paid, this 10th day
of September, 2008.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By



Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**MOTION IN LIMINE TO PRECLUDE
EVIDENCE OF PLAINTIFF'S ALLEGED
BACK INJURIES**

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED

M 11:13 a.m. GE

SEP 12 2008

NO CC

William A. Shaw
Prothonotary/Clerk of Courts

(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

**MOTION IN LIMINE TO PRECLUDE EVIDENCE OF
PLAINTIFF'S ALLEGED BACK INJURIES**

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, PC, and Trisha A. Gill, Esquire, and file the following Motion in Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries and, in support thereof, aver as follows:

I. FACTS

1. This case involves a motor vehicle accident that occurred on or about June 27, 2003. Plaintiff Harold Roos and Defendant-Decedent Robert Bish were the drivers of two motor vehicles involved in a head-on collision on State Route 53 in Morris Township, Clearfield County, Pennsylvania.

2. On or about May 9, 2005, Plaintiff filed his Complaint, wherein he claims that Defendant-Decedent Bish was negligent, reckless and/or careless in allegedly causing this accident, and alleges vicarious liability against Defendant-Decedent Bish's employer, Defendant Trimount, Inc. (See Paragraph 12 of the Complaint, a copy of which is attached hereto as Exhibit "A").

3. Plaintiff claims damages for a variety of injuries, including those to the chest, knee, and lumbar and cervical spine. Plaintiff's alleged back injuries specifically include:

1. lumbar sprain;
2. exacerbation of pre-existing degenerative changes to the lumbar spine;
3. bulging discs of the lumbar spine;
4. exacerbation of pre-existing degenerative changes to the cervical spine; and
5. bulging discs of the cervical spine.

(See Exhibit "A," Paragraph 13).

4. Plaintiff first treated for back pain on November 18, 2002, more than eight (8) months prior to the June 27, 2003 motor vehicle accident. Radiological studies taken in November 2002 revealed that Plaintiff had evidence of L5-S1 disc space, lumbar spondylosis below L2, and bilateral L5-S1 foraminal stenosis. (See Exhibits "B," and "C").

5. Immediately following the motor vehicle accident, Plaintiff was only treated for pain to his right arm and left knee. (See Exhibits "D" and "E"). Even when he was examined a week after the accident, he had no complaints of any back or back-related injuries. (See Exhibit "F"). He did not report the presence of any back pain again until October 29, 2003, more than two (2) months after the accident. (See Exhibit "G"). He then began receiving treatment for his back pain. On November 13, 2003, a CT of Plaintiff's lumbar spine revealed the presence of moderate multilevel canal stenosis at L3-L4, L4-5, and L5-S1, irregularities similar those that were first recognized in November 2003. (See Exhibit "H").

6. In his Pre-Trial Memorandum and his two (2) Supplemental Pre-Trial Memoranda, Plaintiff has not identified any expert physician, nor has he produced any expert report which addresses his alleged back injuries in any way. (See Plaintiff's Pre-Trial Memoranda, copies of which are attached hereto as Exhibit "I").

II. ARGUMENT

7. A plaintiff in a personal injury action must prove causation through "unequivocal medical testimony" by an expert when there is no obvious causal relationship between an incident and an alleged injury, unless "the disability complained of is the natural and probable result of the injuries." *Smith v. German*, 253 A.2d 107 (Pa. 1969).

8. It is error to submit evidence of an injury to a jury when the injury and its symptoms are not contemporaneous with a motor vehicle accident unless a plaintiff has proved that his or her injury was caused in fact by the accident through the use of expert testimony. *McArdle v. Panzek*, 396 A.2d 658 (Pa. Super. 1978).

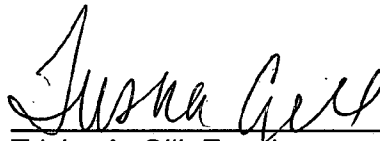
9. Here, there is no evidence that "the disability complained of is the natural and probable result of the injuries." *Smith v. German*, 253 A.2d 107 (Pa. 1969). In fact, Plaintiff has an extensive work history as a boilermaker; Plaintiff has a history of back problems which predate the June 27, 2003 motor vehicle accident; and Plaintiff did not complain of any back or back-related injuries immediately following the accident. Without offering expert testimony that the accident caused the alleged injuries to Plaintiff's back, it would be error for this Honorable Court to submit Plaintiff's back-related injury claims to the jury. *McArdle*, 396 A.2d 658

WHEREFORE Defendants, Robert W. Bish and Trimount, Inc., request that this Honorable Court grant their Motion in Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries and preclude Plaintiff from offering any evidence or testimony related in any way to the back injuries alleged in Plaintiff's Complaint.

Respectfully submitted,

Walsh, Collis & Blackmer, P.C.

By:

A handwritten signature in cursive script, appearing to read "Trisha A. Gill", is written over a horizontal line.

Trisha A. Gill, Esquire

Adam P. Knor, Esquire

Counsel for the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

No. 05 -357 - CD

Type of Pleading:

COMPLAINT

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

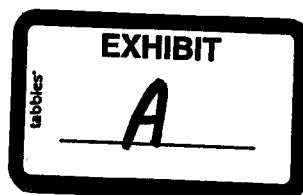
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

MAY 09 2005

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
Market and Second Streets
Clearfield, PA 16830

(814) 765-2641, ext. 5982

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

COMPLAINT

NOW COMES the Plaintiff, Harold J. Roos, Jr., and by his attorney, James A. Naddeo, Esquire, sets forth the following:

1. That the Plaintiff, Harold J. Roos, Jr., is a sui juris, adult individual who resides at 2345 Rolling Stone Road, Morrisdale, PA 16858.

2. That the Defendant, Robert W. Bish, is a sui juris, adult individual who resides at R. D. 3, Box 171, Pleasant Hill, Philipsburg, PA 16866.

3. That the Defendant, Tri Mount, Inc., is a corporation having its principal place of business located at 903 North Front Street, Philipsburg, PA 16866.

COUNT I

Harold J. Roos, Jr. v. Robert W. Bish

4. That on or about June 27, 2003 at approximately 1:45 p.m., E.D.S.T., the Plaintiff, Harold J. Roos, Jr., was the

owner and operator of a 1997 GMC Sierra bearing Pennsylvania Registration No. YDC7151.

5. That on the said date and at or about the said time, the Defendant, Robert W. Bish, was the operator of a 2001 Chevrolet S10 bearing Pennsylvania Registration No. Y6V1455 which vehicle was owned by the Defendant, Tri Mount, Inc.

6. That State Route 53 is a two-lane, macadam highway which proceeds in a generally north-south direction through Morris Township, Clearfield County, Pennsylvania.

7. That on the aforesaid date and at or about the said time, it was daylight and there were no averse weather conditions.

8. That on the aforesaid date at or about the said time, the Plaintiff, Harold J. Roos, Jr., was proceeding north on State Route 53 in his proper lane of travel.

9. That on the aforesaid date and at or about the said time, the vehicle operated by the Defendant, Robert W. Bish, was proceeding south on State Route 53.

10. That on the aforesaid date and at or about the said time, the Defendant, Robert W. Bish, failed to negotiate a right curve in the roadway and crossed over the centerline into the northbound lane of travel where he collided with the vehicle operated by the Plaintiff.

11. That as a result of the collision described in Paragraph 10 hereof which is incorporated herein by reference, the Plaintiff, Harold J. Roos, Jr., was thrown generally forward and backward within the vehicle which he was operating causing the numerous and serious injuries hereinafter set forth.

12. That the Defendant, Robert W. Bish, was guilty of the following negligence, recklessness and carelessness which was the proximate cause of the accident and the injuries to the Plaintiff, Harold J. Roos, Jr., as follows:

A. That the Defendant failed to have his vehicle under proper control;

B. That the Defendant failed to maintain a proper lookout;

C. That the Defendant violated the Motor Vehicle Code of 1976, June 17, P.L. 162, Section 3714, 75 Pa. C.S.A. Section 3174 and supplements thereto in that he operated his vehicle upon State Route 53 with careless disregard for the safety of the Plaintiff, Harold J. Roos, Jr.

E. That the Defendant violated the Motor Vehicle Code of 1976, June 17, P.L. 162, Section 3736, 75 Pa. C.S.A. Section 3736, and supplements thereto, in that he operated his vehicle upon State route 53 in willful or wanton disregard for the safety of the

person or property of the Plaintiff, Harold J. Roos, Jr.

F. That the Defendant violated the Motor Vehicle Code of 1976, June 17, P.L. 162, Section 3309, 75 Pa.C.S.A. Section 3309, and supplements thereto, in that he failed to operate his vehicle entirely within a single lane of a roadway laned for traffic and moved his vehicle from his lane of travel without first ascertaining that the movement could be made with safety.

G. That the Defendant, Robert W. Bish, was negligent, careless and reckless in that he failed to use due care under all circumstances of the case.

13. That as a result of the collision described in Paragraph 10 hereof, the Plaintiff, Harold J. Roos, Jr., suffered the following injuries which may and probably will be permanent:

- A. Abrasions of chest;
- B. Large anterior contusion of bilateral knees;
- C. Exacerbation pre-existing knee replacements;
- D. Lumbar Sprain;

E. Exacerbation pre-existing degenerative changes lumbar spine;

F. Bulging discs lumbar spine;

G. Exacerbation pre-existing degenerative changes cervical spine;

H. Bulging discs cervical spine.

14. That as a result of the injuries referred to in Paragraph 13 hereof, the Plaintiff, Harold J. Roos, Jr., has been unable to engage in his regular household duties since the time of the accident up to and including the filing of this complaint and will be unable to do so for an indefinite period of time in the future.

15. That as a result of the injuries referred to in Paragraph 13 hereof, the Plaintiff, Harold J. Roos, Jr., may incur medical expenses for the treatment of his injuries in excess of his available first party medical benefits.

15. That as a result of the injuries referred to in Paragraph 13 hereof, the Plaintiff, Harold J. Roos, Jr., has lost wages which may and probably will exceed the amounts to which he is entitled under first party reimbursement.

16. That the Plaintiff, Harold J. Roos, Jr., claims a reasonable amount for the following:

A. Pain and suffering: past, present
and future;

B. Privation and inconvenience: past,
present and future;

C. Future medical expenses;

D. Lost wages;

E. Impairment of earning power;

F. All other damages allowable by law.

WHEREFORE, the Plaintiff, Harold J. Roos, Jr., claims damages from the Defendant, Robert W. Bish, in excess of Twenty Five Thousand (\$25,000.00) Dollars. Jury Trial Demanded.

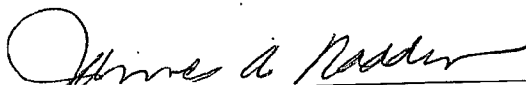
COUNT II

Harold J. Roos, Jr. v. Tri Mount, Inc.

17. That the Plaintiff incorporates Paragraphs 4 through 16 of the First Count of this Complaint by reference and makes them a part hereof.

18. That at all times referred to herein, the Defendant, Robert W. Bish, was acting within the course of his employment and under the supervision and direction of the Defendant, Tri Mount, Inc.

WHEREFORE, the Plaintiff, Harold J. Roos, Jr., claims damages from the Defendant, Tri Mount, Inc., in excess of Twenty Five Thousand (\$25,000.00) Dollars. Jury Trial Demanded.


James A. Naddeo
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF CLEARFIELD)

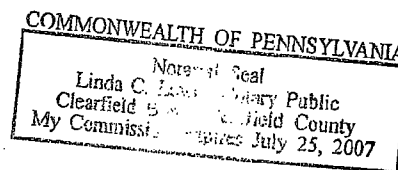
SS.

Before me, the undersigned officer, personally appeared HAROLD J. ROOS, JR., who, being duly sworn according to law, deposes and states that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

Harold J. Roos, Jr

SWORN and SUBSCRIBED before me this 6th day of May, 2005.

Linda C. Lewis



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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*
*
*
*
*
*

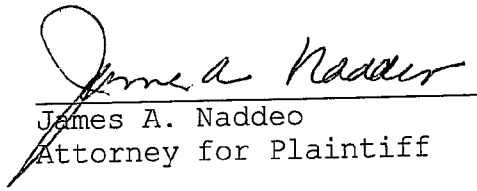
No. 05 - - CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Complaint filed in the above-captioned case was
served on the following and in the following manner on the 9th day
of May, 2005:

First-Class Mail, Postage Prepaid

Trisha A. Zaken, Esquire
WALSH, COLLIS & BLACKMER, LLC
The Gulf Tower, Suite 2300
707 Grant Street
Pittsburgh, PA 15219


James A. Naddeo
Attorney for Plaintiff

Office Exam



Patient Name: Roos, Harold J.

DOB: 11-26-53

Encounter Date: 11-18-02

Social Security #: 195-40-9438

Provider: Thomas J. Ellis, DO

Ref Physician: V. J. Romeo, MD

Family Physician:

SUBJECTIVE

Chief Complaint: He is being seen evaluated for right shoulder pain and right lower extremity and radicular type complaints. He relates his knee pain is essentially gone status post surgery.

OBJECTIVE

Physical Exam: Exam of the right knee reveals the incision to be well healed.

Exam of the shoulder reveals evidence of impingement with rotator cuff tendonitis. He has evidence of obvious calcific tendonitis.

Deep tendon reflexes are equal and symmetric. No evidence of focal motor weakness or deficit.

XR Exam: AP and lateral views of his lumbar spine reveal evidence of L5-S1 disc space.

ASSESSMENT/DIAGNOSIS:

1. Status post arthroscopy and arthroscopic partial meniscectomy.
2. Calcific tendonitis of the right shoulder with new onset of rotator cuff tendonitis.
3. Lumbar radiculopathy.

PLAN

Encounter Actions: I have injected his subacromial space with a mixture of Marcaine, Lidocaine, and Celestone.

I will make arrangements for an MRI to evaluate the radicular pattern of his pain.

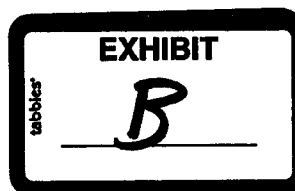
Work/School Status: As tolerated.

Return Visit Orders: After MRI.

Thomas J. Ellis, DO

TJE/kjl

Faxed to: V. J. Romeo, MD ◀





Patient Name: Roos, Harold J.

DOB: 11-26-53

Encounter Date: 11-25-02

Social Security #: 195-40-9438

Referring Physician: Thomas J. Ellis, D.O.

MRI Lumbar Spine – XR# 17796

Axial and sagittal scans were obtained.

The L5-S1 disc is narrow and bulges circumferentially. The disc flattens the anterior margin of the thecal sac. The disc extends into and narrows the L5 neural foramen.

The L3-L4 and L4-L5 discs bulge circumferentially. The discs flatten the anterior margin of the thecal sac. The discs extend into the inferior part of the neural foramen and cause moderate stenosis. Minimal circumferential bulging of the L2-L3 disc is also present.

The L1-L2 disc is normal. The lumbar discs below L2 have decreased signal on the T2W images. No posterior disc protrusion or spinal stenosis was demonstrated. The lumbar vertebrae have normal signal.

Conclusions: Lumbar spondylosis. Circumferential bulging of the lumbar discs below L2 is present. The most severe bulging is at the L5-S1 level. Bilateral L5-S1 foraminal stenosis.


F. B. Olney, M.D.

FBO/maz

Date Typed: 11-26-02

Date Signed: 11-26

101 Regent Court State College, PA 16801 (814) 231-2101 FAX (814) 231-8569
2525 9th Avenue Suite 2B Altoona, PA 16602 (814) 949-4050
12 North Dorcas Street Lewistown, PA 17044 (717) 248-4664



SEP 13 2004

HISTORY - PHYSICAL EXAMINATION

10-9063 195-40-9438

Roos Jr, Harold J

01/06/2003 Jyotish Grover, MD

11/26/1951 51 M

Harold Roos is a 51-year-old gentleman referred from Dr. Ellis for evaluation and treatment of low back and bilateral leg pain. He was first seen in the office 12/26. Mr. Roos states that he has been experiencing pain in his low back and both legs for approximately one year. His symptoms began insidiously and have been increasing in intensity. His pain is predominately in his low lumbar area with radiation to his right low back, buttocks, posterior thigh to the knee and occasionally into the lateral calf. He describes this pain as a constant sharp sensation rated 8 out of 10. Exacerbating factors are walking and climbing up and down steps. His pain is affecting his lifestyle. He finds it difficult to hunt. Alleviating factors have been rest and the use of Tylenol. There is no radicular distribution, although, he does report some occasional paresthesias in his left leg. There is no motor or sensory loss, no bowel or bladder incontinence. He has been treated with anti-inflammatory agents to no significant benefit.

PAST MEDICAL HISTORY: Unremarkable.

PAST SURGICAL HISTORY: Bilateral knee arthroscopy.

MEDICATIONS: Tylenol.

ALLERGIES: No known drug allergies. No contrast allergies.

SOCIAL HISTORY: Patient is single. He works as a boilermaker, reports a history of tobacco and three to four beers a day.

REVIEW OF SYSTEMS: As documented in the chart and essentially positive for chronic cough and shortness of breath with exertion.

PHYSICAL EXAMINATION: Pleasant male who appears in the office in no apparent distress. BP is 142/92, pulse 88, height 5 feet 8 inches, weight 220. Full exam is included in the body of the chart. Screening exam of the lower extremity shows normal motor, sensory and reflex testing. Gait is normal.

LUMBOSACRAL EXAM: Full reflection is 90 degrees. Extension, bending and location are limited to 20 degrees on the right. There is some mild right L5-S1 paraspinous tenderness. Otherwise exam is unremarkable.

DIAGNOSTIC STUDIES: MRI of the lumbar spine 11/25/02 shows lumbar spondylosis, disc bulging L5-S1 with bilateral foraminal stenosis at this level.

- ASSESSMENT:
1. Lumbar spondylosis.
 2. Rule out right L4-5, L5-S1 lumbar facet dysfunction.
 3. Degenerative disc disease.
 4. Body deconditioning.

ORIGINAL

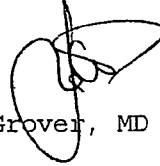


10-9063 195-40-9-38

Roos Jr, Harold J

PLAN: Patient will be scheduled for right L3, 4 and 5 diagnostic medial branch blocks to assess the facet arthropathy. Procedure was scheduled January 6th under fluoroscopy.

Risks, benefits and alternatives of the procedure were discussed with the patient.



Jyotish Grover, MD

JG:jcs

Doc # 66517

D: 12/26/2002 8:34 P

T: 12/27/2002 11:57 A

cc: Jyotish Grover, MD

Form # 86097495

Pre-Hospital Patient Information Sheet

Date Of Incident 06/27/2003

Dispatch Incident # 1143

Harold J Roos Jr.

SS#: 195-40-9438

Service Incident # 2003 1151 1151

<u>Affiliate</u>	<u>Unit</u>	<u>Affiliate Name</u>	<u>Patient Received By</u>	<u>Receiving Facility Code</u>
14013	55	Moshannon Valley EMS	Burge, Carrem	01631 - Philipsburg Area Hospital
<u>Response Outcome</u>	Transported		<u>Command Facility ID</u>	1631 - Philipsburg Area Hospital
<u>Nature Of Dispatch</u>	ALS Emergency		<u>Command Physician</u>	Horton
<u>Responding Unit Type</u>	ALS Warning devices used		<u>Research Code</u>	
<u>Transport Mode Type</u>	ALS No warning devices used		<u>Rcv. Pt. From</u>	N/A
<u>Mutual Aid Response</u>	No		<u>MCD Code</u>	17938 Morris Twp.
<u>Multiple Pt. Encountered</u>	No		<u>Incident Location Type</u>	Traffic Way, other
			<u>Location Description</u>	Route 53 past Key Largo

<u>Attendants</u>	(A)uthor / (D)river	<u>Times</u>
1. Siegfried, Bradley	P016530 (A)	Dispatch 1353 (hours)
2. Woolworth, William	E025735 (D)	Responding 1353
3.		On Scene 1402
4.		Pt. Contact 1404
		Depart Scene 1407
		At Destination 1421
		Available 1434
		In Quarters 1434

Patient Information

<u>Name</u>	Harold J Roos Jr.	<u>Age</u>	51 Years
<u>Address</u>	4345 Rolling Stone Road	<u>Gender</u>	Male
<u>City, State Zip</u>	Morrisdale PA 16858	<u>DOB</u>	11 / 26 / 1951
<u>Phone</u>	(814)345-5831	<u>SSN</u>	195-40-9438
		<u>Physician</u>	

Billing Information

<u>Name</u>	<u>Mileage</u>	<u>Medicare #</u>
<u>Address</u>	<u>Out</u>	1 <u>Medicaid #</u>
<u>City, State Zip</u>	<u>On Scene</u>	7 <u>Group Ins. #</u> Auto Insurance
<u>Phone</u>	<u>Dest.</u>	14 <u>Other Ins. #</u>
	<u>In</u>	15 <u>Ins. Code #</u>
	<u>Loaded Mileage</u>	7 <u>Subscription</u> No
		<u>Zip Code of call origin</u> 16858

<u>CPR</u>	<u>Patient Condition</u>	<u>Glasgow Coma Scale</u>	<u>Vital Signs</u>
<u>Witnessed Arrest</u> N/A	<u>On Scene</u> Moderate	<u>Eyes</u> 4	<u>Pulse</u> 110
<u>Bystander CPR</u> N/A	<u>At Dest.</u> Stable	<u>Verbal</u> 5	<u>Resp</u> 20
<u>Arrest to CPR</u> N/A (minutes)		<u>Motor</u> 6	<u>Systolic</u> 160
<u>Arrest to Defib.</u> N/A		<u>Total</u> 15	<u>Diastolic</u> P
<u>Arrest to ALS</u> N/A			

Cause Of Injury

Vehicle

Work Related

No

<u>Safety Devices</u>	<u>Contributing Factors</u>	<u>Situation Of Injury</u>	<u>Suspected Illness</u>
Shoulder/Lap Belt	Self Extricated Str Whl/Dsh/Wndsd Dam. Walking After Accident	Speed 40+ MPH 20+ Speed Change Deformity 20+ inches Intrusion 12+ inches	

EXHIBIT

D

Form # 86097495

Pre-Hospital Patient Information Sheet

Date Of Incident 06/27/2003

Harold J Roos Jr.

Dispatch Incident # 1143

SS#: 195-40-9438

Service Incident # 2003 1151 1151

Medical Command Radio,EKGIVChief Complaint Arm & Knee PainInit. EKG Sin. Tach.IV Type RingersAllergies NoneFinal EKG Sin. Tach.IV Site ACMedications NoneIV Rate TKOInjuries

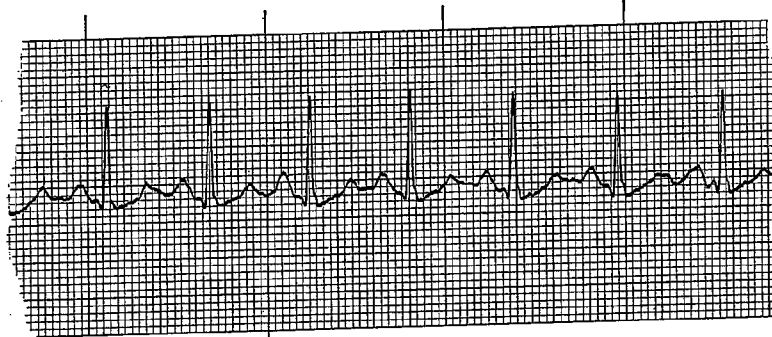
Chest	-	Blunt	SoftOpen
Arm	-		SoftOpen
Hand	-		SoftClosed SoftOpen

Treatment

	ATTEND. 1	ATTEND. 2	ATTEND. 3	ATTEND. 4	OTHER
C-Spine Stab.	-	X			
C-Collar	-	X			
C-Spine Imm. Dev	-	X			
Board - Long	-	X			
O2 1-9 lpm	-	X			
Bandage	-	X			
Peripheral IV	-	X			
EKG	-	X			
Blood Draw	-	X			

Medication AdministeredTreatment Flowchart

#	TIME	PULSE	RESP	BP	RHYTHM	O2%	GCS	ATTEND	TREATMENT
1.	14:04	110	20	160/P	Sin Tac	98	15	016530	Patient walked to back of unit, complaint of Arm & knee pain
2.	14:05								Patient collared and placed on LBB, CID Loaded for transport
3.	14:07								IV, 18g, left AC, Ringers KVO, O2 NC
4.	14:09								Detailed Assessment, Laceration covered
5.	14:11								PAH contacted with ALS Report, No orders transport,
6.	14:15	108	20	154/P	Sin Tac	99	15	016530	Recheck, Focus assessment of chest & knee
7.	14:22								At PAH, Patient to bed 5, report to RN



Form # 86097495

Pre-Hospital Patient Information Sheet

Date Of Incident 06/27/2003

Harold J Roos Jr.

Dispatch Incident # 1143

SS#: 195-40-9438

Service Incident # 2003 1151 1151

Chief Complaint Arm & Knee Pain

NARRATIVE

Patient driver of a large size pick-up truck, Seat-belt on, airbags deployed, Involved in a head on accident with major front end damage, Patient removed himself from the truck and walked to the back of the ambulance when we arrived on scene. Patient stated he was having arm and left knee pain, No LOC,

Auto:

Larger Pick-up, Steering wheel slightly bent, airbag deployed, dash intact, major front end damage. and passenger side damage.

Assessment:

Patient found to be alert and orientated times three with a good airway and good air exchange, No face trauma, No CSF to ears or nose, No tracheal deviation, No JVD, No Chest Sub-Q, chest pain with trauma noticed (lacerations and contusions) lung sounds clear with equal expansion, abdomen soft and non-tender, no nausea, no vomiting, Hip and pelvis stable, able to move all extremities with purpose and on command, Good sensation, equal grip strength, Lacerations and contusions to the right elbow, forearm, and hand, pain in the wrist, Skin: Warm, pink, dry, Pupils PERL, Normal mental status, Speech coherent, Weight 160 pounds approx, GCS 15

Treatment:

Assessment Vitals, LBB, Collar, CID, Cardiac Monitor, IV Ringers, O2, Transport, PAH contacted ALS report, no orders given

Transport:

Patient talked all during transport, No new complaint, Ongoing assessment found nothing new, No change in patient condition during transport, no incident

PAH:

Patient placed in bed 5, Report to RN's, Unit and Litter cleaned and supplies replaced.

Attendant 1

William L. Woodward EMT

Attendant 3

Attendant 2

William L. Woodward EMT

Attendant 4

Name: Harold J Roos Jr.
PMH: Knee Replaced x2
Allergies: None

Position Found: walking to ambulance

Position Found: walking to ambulance

Seatbelt: Y N Steering Wheel

Condition of Vehicle: Major

Weight: 160 lbs Approx Age: 51 Sex: M

Meds: None

Mech. of Injury: Chest & knee to Jaws (1)

Windshield Intact: Y

Windshield Intact: ☒ Windshield Intact: ☒

Skin Color:

☒ Pink () Ashen
☐ Cyanotic () Flushed
☐ Pale () Rash

(X) Dry () Moist () SW

() Hot (X) Warm () Cold

Right ~~8~~ Left DEPT

PERC
Binnpoint

() () Finpoint
() () Midposit

()	()	Midposic.
()	()	Dilated

()	()	Delayed
()	()	Fixed

()	()	lined
()	()	Responsi'

Mental Status:

☒ Conscious

~~X~~ Oriented :

() Responses:

~~X~~ Voice

() Pain

(.) Combative

Speech:

☒ Coherent ☐ Incoherent
☐ Plausible ☐ Not plausible

☒ Slurred ☐ None

Vital Signs:

Time	P	R	BF	MONITOR
0000				
0005				
0010				
0015				
0020				
0025				
0030				
0035				
0040				
0045				
0050				
0055				
0100				
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0845				
0850				
0855				
0900				
0				

Set Up Fee

YES	NO	Comments
-----	----	----------

Battle Signs

Nose: 3

Tracheal Deviation

Chest: Sub-Q Emphysema

Bilateral Breath Sounds

Equal Expansion

Abdomen Soft

Hip/Pelvis Stable

Extremities

MOVES All

Sensation WNL

Equal grip Str.

Distal Pulses upper

lower

**New Patient Consent to the Use and Disclosure of Health Information
for Treatment, Payment, or Healthcare Operations**

I, _____, understand that as part of my health care, **Moshannon Valley EMS** originates and maintains paper and/or electronic records describing my health history, symptoms, examination and test results, diagnoses, treatment, and any plans for future care or treatment. I understand that this information serves as:

- A basis for planning my care and treatment,
- A means of communication among the many health professionals who contribute to my care,
- A source of information for applying my diagnosis and surgical information to my bill
- A means by which third-party payer can verify that services billed were actually provided, and
- A tool for routine healthcare operations such as assessing quality and reviewing the competence of healthcare professionals

I understand and have been provided with a *Notice of Health Information Practices* that provides a more complete description of information uses and disclosures. I understand that I have the following rights and privileges:

- The right to review the notice prior to signing this consent,
- The right to object to the use of my health information for directory purposes, and
- The right to request restrictions as to how my health information may be used or disclosed to carry out treatment, payment, or health care operations

I understand that **Moshannon Valley EMS** is not required to agree to the restrictions requested. I understand that I may revoke this consent in writing, except to the extent that the organization has already taken action in reliance thereon. I also understand that by refusing to sign this consent or revoking this consent, this organization may refuse to treat me as permitted by Section 164.506 of the Code of Federal Regulations.

I further understand that **Moshannon Valley EMS** reserves the right to change their notice and practices and prior to implementation, in accordance with Section 164.520 of the Code of Federal Regulations. Should **Moshannon Valley EMS** change their notice, they will send a copy of any revised notice to the address I've provided (whether U.S. mail or, if I agree, email). I wish to have the following restrictions to the use or disclosure of my health information:

I understand that as part of this organization's treatment, payment, or health care operations, it may become necessary to disclose my protected health information to another entity, and I consent to such disclosure for these permitted uses, including disclosures via fax.

I fully understand and accept / decline the terms of this consent.

Harold J. Ross Jr 6-27-03
Patient's Signature Date

FOR OFFICE USE ONLY

- ☐ Consent received by _____ on _____
- ☐ Consent refused by patient, and treatment refused as _____
- ☐ Consent added to the patient's medical record on _____

[illegible]

602488
ROOS JR, HAROLD J 51068
11/26/1951 51 342-5031
HUNTON RICHARD 06/27/03
ROOS JR, HAROLD J

Time: 1430

Arrived:) Walk) WC () Carry () Litter () Amb () Other

Initial VS: T 98.9 P 100 R 20 BP 150/102 O2 Sat

WT

Tetanus

Rate Pain: 10/10

Chief Complaint MVA driver of truck hit another truck @ restraint

PMH () none () asthma () CVA () CA () CAD () CHF () Htn () DM () MI () PUD () COPD () seizure () GERD

() CABG () PCTA () Smokes 2/3 pack per day bag deployment abrasions across chest

Rx prior to arrival: Balat knee replacements May 7 Latex Allergy () No () Yes area

Mechanism Injury abrasion in R FA Medications 0003 Allergies-Reactions

(X) MVA-auto () Industrial

() Motorcycle () Assault

() Farming () Car/pedestrian

() Fall () GSW

() Stabbing () Bicycle

() Tractor trailer () Burn

() ATV () Other

(X) Driver () Ejected

() Front passenger () Rollover

() Rear passenger () Entrapped min

() Lap belt () Child seat

() Helmet () None

() Lap/shoulder () Unknown

(X) Airbag

Antibiotics for dental work earlier NKA today
tylenol prn

Glasgow Coma Scale

Description:

	Spontaneous= 4
Eyes	To voice= 3
Open	To pain= 2
	None= 1
Best	Oriented= 5
Verbal	Confused= 4
Response	Inappropriate= 3
	Incomprehens= 2
	None= 1
Best	Obey command= 6
Motor	Localize pain= 5
Response	NI Flexion= 4
	Ab flexion= 3
	Ab extens= 2
	No response= 1

LOC () Yes min () No () Unknown () Amnesic
Domestic Violence Screening Completed () Yes () No
Crisis Follow up () Yes () No
Immobilization (X) LBB (X) C-Collar (X) HID/CID () None
Airway: Patent () Yes () No Breathing
() Natural () Oral () Nasal () Spontaneous () Unlabored
() Cric needle/ surg. Size () Full Expansion () Labored
() Trach size () Asymmetrical () Sub Q air
O2 type () Absent/ assisted
Trach midline () Yes () No
Breath sounds (X) Equal () Absent () R () L () Clear
Rales/rhonchi/wheeze () R () L () Clear
Diminished () R () L

Mental Status (X) Conscious (X) Oriented (X) Person (X) Place (X) Time () Uncooperative () Combative () Unresponsive

Speech () Coherent () Incoherent () Silent () Hysterical () Slurred () Crying

Integumentary Temp: (X) NL () Hot () Warm () Cool () Cold () Moist: () NL () Dry () Moist () Diaphoretic

Facial () NA () Sore throat () Dysphagia () Drooling () Nasal () NA () Deformity () Bleeding () Congestion

Eye/Ear () NA () Drainage () Reddened () Teary () Pain () Swelling () FB () Visual Acuity OD OS

Hearing Aid () Corrective lenses/ contacats

Cardiopulmonary () NA

ECG Time

To MD

Chest pain () No () Yes scale

Location

Radiation

Quality

Precipitating Factors

Severity

Nausea/ vomiting () Yes () No

Dyspnea () Yes () NO

Cough () Yes () No () Nonproductive () Productive

Syncope () Yes () No

Diaphoresis () Yes () No Edema () No () Yes

PHILIPSBURG AREA HOSPITAL

402486 24 #
 ROLLS JR, HAROLD J 5106A
 11/26/1951 31 345-5831
 MORTON MICHAEL 10/27/1951
 MORTON MICHAEL DOMED BRAD
 12 10

Gastrointestinal () NA Last oral intake _____ Nausea () Yes () No
 Vomiting () No () Yes x _____ Color _____ Last BM _____ Diarrhea () No () Yes x
 Air () No () Yes Location _____ Bowel sounds RUQ () LUQ () RLQ () LLQ ()
 Abdomen () Distended () Firm () Soft () Nontender () tender () colostomy () ileostomy
 Musculoskeletal () NA Pulses () Yes () No Sensory () Yes () No Gait () Steady () Unsteady () Limp ()
 ROM R () Full () Limited () Full () None Wound size _____
 Neurological () NA () Headache () Visual Problem () Dizzy () Vertigo
 Pupils R _____ L _____
 Grip strength () Equal () Unequal _____

= NL AB= abnormal A= absent

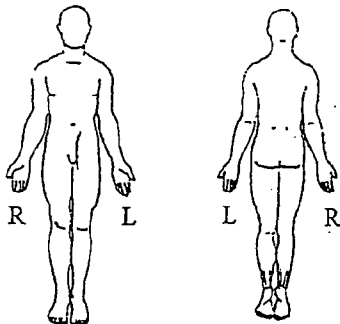
UE	Movement	Sensation	Pulses
UE			
LE			
LE			

Genitourinary () NA () Frequency () Burning () Pain () Bleeding
 () Incontinent () Retention () Urgency () Foley # _____ () Penile Discharge

Gynecological () NA Pregnant () No () Yes () Possible if yes EDC _____

FHT _____ Gravida _____ Para: _____
 () Vaginal bleeding _____ #pads () Vaginal discharge _____

ey
 Abrasion
 Burn
 Contusion
 Amputation
 Paralysis
 Fracture
 Gunshot
 Pain
 Paresthesia
 Puncture
 Laceration



	Time	Size	Site	Response	Initial
O2		Liters	Via		
Ice/Hot					
Collar					
Foley					
OG/NG					
Lavage					
Intubate					
Dressing					
Sutures					
Other					

Intake	Fluid	Size/Size	Rate	Intake	Output	Initials
me				Amt in/d/c		
10/26/51	100	100	100			AB

Monitoring	me	P	R	BP	Sat	Rhythm	Medication	Dosage	Route	Response/comments
155	108	18	105/85							Xrays complete - Cervical
1515	108	18	105/85							NO XRAY OF Ribs after 4 studies
1545	108	18	105/85							Returns from Xray
1555	108	18	105/85							EC not given yet
1554	108	18	105/85							Understand PC to have
1553	108	18	105/85							

Disposition
 Discharge @ 1555 () Admitted Rm _____ Report to _____ Transfer to _____ () air () ALS () BLS
 Valuables sheet () Old records to floor () Xrays to floor ()
 Notification of () family () SNF () Home nursing () Clergy () Supervisor
 Education provided:
 AMA () Elope () Deceased () CORE notified () Coroner notified

Philipsburg Area Hospital
Emergency Services
210 Loch Lomond Road
Philipsburg, PA 16866
(814) 342-7112

602486 24 M
ROOS JR, HAROLD J 51068
11/26/1951 51 345-5831
HORTON RICHARD 06/27/11
HORTON RICHARD ROMEO 81111
10 10

Important Warning: The examination and treatment you received today were performed on an emergency basis and are *not* a substitute for complete medical care. You should see your doctor for follow-up care. If you feel worse or develop new symptoms, see your doctor at once or return to the Emergency Department. If you had EKGs or X rays, they will be reviewed within 24 hours and, if changes in treatment are necessary, you will be notified.

Rest - Tylenol or Aspirin - Ice -

Follow up with family Dr. if not
better in several days or return if
worse.

atf work 6/27
and 6/28/83

Important: Follow up with your doctor. Immediately see your doctor (or return to the Emergency Department) if you feel worse or develop new symptoms.

"I understand the instructions received in the Emergency Department"

Signed:

[Signature of Harold J. Roos]
Patient/Responsible Person

Witness:

[Signature]
Physician/Nurse

ROUTINE	
STAT	✓
PORTABLE	
WHEELCHAIR	
STRETCHER	
AMBULATORY	

PHILIPSBURG, PA 16866
RADIOLOGY DEPARTMENT
DIAGNOSTIC SERVICE REPORT

51068
 DATE TO BE DONE
 6/27/03
 DATE DONE
 6/27/03

ROOS JR., HAROLD J.
 12671951 51 345-5831
 TON RICHARD 06/27/03
 RICHARD ROMEA BELL
 46X15478E07160
 4
 ROOS

TECHNICIAN ILC

CODES CHI REQUESTING PHYSICIAN: HORTON
 INP-INPATIENT OPT-OUTPATIENT ER-EMERGENCY CL-CLINIC

CLINICAL HISTORY PERTAINING TO SERVICE ORDERED

REQUESTED	1	CHEST	6	11
	2	④ KNEE	7	12
	3	④ WRIST + FOREARM	8	13
	4		9	14
	5		10	15

MVA

NAME: ROOS JR., HAROLD J.

X-RAY #: 51068

DATE: 06/27/03

HISTORY: MVA.

CHEST X-RAY

COMMENTS: No previous chest x-rays are available for comparison. There is mild hyperinflation to suggest bronchitis. Otherwise the examination is unremarkable. There is no demonstration of pulmonary contusion nor pneumothorax.


LEFT KNEE

COMMENTS: Note is made of a knee prosthesis with no demonstration of fracture.

RIGHT WRIST & FOREARM

COMMENTS: The bones of the right wrist and forearm are roentgenographically negative for recent fracture or dislocation.

D: 06/28/03
 T: 06/30/03
 BD/slr


 Bernard DiGiacobbe, M.D. / Date

SENT TO:
 DATE:
 BY:

X-ray Report



Patient Name: Roos, Harold J.

DOB: 11-26-51

Encounter Date: 07-02-03

Social Security #: 195-40-9438

Provider: Thomas J. Ellis D.O.

Ref Physician: V. J. Romeo, MD

Family Physician:

SUBJECTIVE

Chief Complaint: Harold is being seen and evaluated status post bilateral total knee arthroplasty. He was involved in a motor vehicle accident where he sustained an injury to his bilateral knees. He went to the emergency room at Philipsburg Hospital. He presents today for orthopedic evaluation.

XR Exam: X-rays today reveal evidence of a large anterior contusion of bilateral knees. There is no evidence of loosening or damage to his knee prostheses of bilateral knees, but he has large ecchymotic contusions of his bilateral knees.

PLAN

Encounter Actions: We have discussed this situation extensively today. We have discussed treatment options. We have made arrangements for a trial of continued physical therapy and rehabilitation. I do believe this is going to set him back with regard to his overall rehabilitation, as he has obviously had a significant setback, especially with regard to his left knee prepatellar area, prepatellar effusion, and swelling. At this point, we will continue with physical therapy and rehabilitation and follow back at his regularly scheduled appointment on August 3.

Return Visit Orders: Follow-up on August 3.

Thomas J. Ellis D.O.

TJE/ram

Faxed to: V. J. Romeo, MD ◀



NAME Harold Ross Jr. TEST RESULTS CANCELED DATE 10/29/03
 Birthday: 11/26/51 NEW ON: ACUTE MED. CHANGE: ACUTE PUL. PT -C/O
Acute (D) lower lumbar REBILLS: - + NEEDS ✓
pain. Sciatic pain (L) leg. c/o (L) LUMBAR PAIN & IRRITATION
DOWN THE BACK OF LEG TO ABOUT THE KNEE. WAS IN AN MVA
JUNE 27 WAS SOWN AT P-BURG HOSPITAL. NO FURTHER PROBLEMS.
BACK PAIN STARTED 3 WKS AGO. SHARP CONSTANT PAIN. 7-10/24
HOURS. SOME PROBLEMS & SLEEP

PHYSICAL EXAMINATION LAST B.P. 136/90 RESP. 20 PULSE. 72 LAST APPT. 8/27/03
 Vitals BP 162/96 150/90 after 10 min. LAST WT. 221#
 BP 96 RESP. 20 PULSE 80 WT: 236 3/4 SaO2 % on

REVIEW OF SYSTEMS

	(circle abnormalities)				
General	—	weight loss	fatigue	night sweats	rigors
Cardiac	—	chest pain	palpitations	orthopnea	PND
Pulmonary	—	dyspnea	cough	sputum	pleurisy
GI	—	nausea	vomiting	constipation	diarrhea
GU	—	dysuria	urgency	frequency	hesitation
Neurologic	—	weakness	numbness	headache	photophobia
					blurred vision

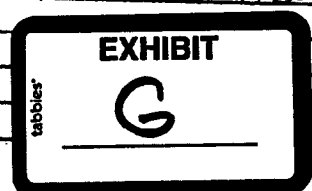
PHYSICAL EXAMINATION

	Normal:-	Abnormal:
General	— alert, well appearing and no acute distress	
Eyes	— conjunctivae clear, lids normal, EMOI, PERRLA	
Fundi	— cup/disc normal, no AV nicking, no hemorrhages or exudates	
ENT	— auricles normal, patent canals, TMs normal, no gross hearing impairment	
	— nose symmetric, nasal mucosa intact, no sinus tenderness	
	— oropharynx clear, oral mucosa intact and moist, no tongue lesions	
Neck	— symmetrical, no JVD, no LA, carotids palpable without bruit, no thyromegaly	
Heart	— regular rate and rhythm, no clicks, rubs, or murmurs; no S3 or S4	
Lungs	— CTAB, no wheezes, rhonchi, or crackles	
Abdomen	— soft, NT, ND, NABS, no masses or hepatosplenomegaly, no rebound or guarding	
	— no CVA tenderness, no bruits	
Rectal	— heme negative, normal tone, no masses, no prostate assym., masses, tenderness	
Extremities	— strength preserved x4; no clubbing, cyanosis, or edema	
Neurologic	— cranial nerves II - XII intact, no gross motor or sensory loss, DTRs intact	
Skin	— no eruptions, no induration, no suspicious lesions	
Testicular	— normal testicle sizes, no masses, no discomfort, no bruits	
Breast	— symmetric, no masses or axillary LA, no nipple drainage, no dimpling	
Vaginal	— normal vulva and vaginal vault, no cervix/adnexa masses or tenderness	

(L) PARA-SPINAL
TENDERNESS.
NO DTR'S.

ASSESSMENT AND PLAN

1) LUMBAR PAIN
 NEW MED: RX / samples Will V CT OF SPINE 11-2-03 1:30
 MED CHANGED:



BILLING CODES (Circle) HAS OLD APPT. 12/17/03 WALK-IN:
 Dx: NEW APPT. 12 TIME: RET. CK.
 211 (212) (213) 214 215
 EKG: Consult:

**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**
(814) 768 - 2275

PATIENT: **ROOS, HAROLD JOHN**
AGE: 51 SEX: M
DOB: 11/26/1951
ORD DR: ROMEO, BRUNO J
ATT DR: ROMEO, BRUNO J
ALT DR: ROMEO, BRUNO J

MR #: **144115**
ADM#: 51176451 OP
ROOM/BED:
PT CLASS: OUT
PT TYPE: R FC: F
HOSP SVC: IMG ORDER #: 90002

REFERRING DIAGNOSIS: LUMBAR PAIN

CONTRAST DOCUMENTATION:
BRAND: AMT: BY:

HISTORY/ COMMENTS: MVA 6/03. C/O PAIN ACROSS LOW BACK WITH OCC RADIATION DOWN LT
LEG.
IS PATIENT PREGNANT? NA LMP:
SHIELDED: NO NO. OF FILMS: 6 FLUORO TIME:
ORDER #: 90002

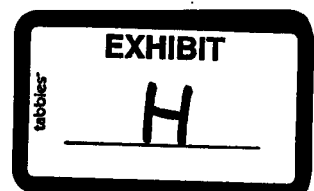
11/13/2003 CT LUMBAR SPINE W/O CON 72131
PROCEDURE ENDED: 11/13/2003 12:52 Initials: CAW

Axial computed tomography is performed from the L2 through S1 levels. Computer aided reformation is obtained through the disc spaces.

- L2-L3: Mild degenerative hypertrophy of the facets. No herniated nucleus pulposus is seen.
- L3-L4: Degenerative and diffusely bulging disc is seen with facet hypertrophy producing moderate spinal canal stenosis at this level. No acutely herniated nucleus pulposus is seen.
- L4-L5: Degenerative and bulging disc with facet hypertrophy is present producing moderate spinal canal stenosis.
- L5-S1: Degenerative and bulging disc with vacuum disc phenomenon is seen. There is facet hypertrophy producing moderate spinal canal stenosis. No acutely herniated nucleus pulposus is seen.

IMPRESSION: Moderate multilevel spinal canal stenosis at L3-L4, L4-L5 and L5-S1.
There is narrowing of the lateral recesses and neuroforamina bilaterally secondary to degenerative and bulging disc and facet joint hypertrophic degenerative disease.
No acutely herniated nucleus pulposus is seen at this time.

READING DOCTOR: DAVID L. OBLEY, M.D.
ELECTRONICALLY SIGNED: DAVID L. OBLEY, M.D.
TRANSCRIBED BY: PAR 11/13/2003 02:33PM



**CLEARFIELD HOSPITAL
IMAGING DEPARTMENT**
(814) 768 - 2275

PATIENT: **ROOS, HAROLD JOHN**
AGE: 51 SEX: M
DOB: 11/26/1951
ORD DR: ROMEO, BRUNO J
ATT DR: ROMEO, BRUNO J
ALT DR: ROMEO, BRUNO J

MR #: **144115**
ADM#: 51176451 OP
ROOM/BED:
PT CLASS: OUT
PT TYPE: R FC: F
HOSP SVC: IMG ORDER #: 90003

REFERRING DIAGNOSIS: F/U CT

CONTRAST DOCUMENTATION:
BRAND: AMT: BY:

HISTORY/ COMMENTS: MVA 6/03. PAIN LOW BACK DOWN LEFT LEG. @1320
IS PATIENT PREGNANT? NA LMP:
SHIELDED: NO NO. OF FILMS: 3 FLUORO TIME:
ORDER #: 90003

11/13/2003 SPINE LUMBAR 2 OR 3 VIEWS 72100
PROCEDURE ENDED: 11/13/2003 13:11 Initials: EAL

There is abnormal narrowing of the L3-L4, L4-L5 and L5-S1 disc spaces. Moderate hypertrophic degenerative disease of the facets is seen. No fracture, dislocation or destructive bony process is noted.

IMPRESSION: Degenerative disc and joint disease.

READING DOCTOR: DAVID L. OBLEY, M.D.
ELECTRONICALLY SIGNED: DAVID L. OBLEY, M.D.
TRANSCRIBED BY: PAR 11/13/2003 02:34PM

RECEIVED
APR 15 1966

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

PRE-TRIAL MEMORANDUM

I. Factual Statement.

Plaintiff and Defendant, Robert W. Bish, were involved in a car accident on State Route 53 on June 27, 2003. On said date, Mr. Bish failed to negotiate a turn in the roadway, crossed over the centerline and into the lane of Plaintiff and collided with Plaintiff's vehicle. At the time of the accident Plaintiff was recovering from knee replacement surgery and was expected to have a complete and successful recovery. As a result of the accident, Plaintiff suffered numerous serious injuries for which medical treatment was and is required. As a result of the injuries sustained in the accident, Plaintiff was unable to engage in his regular household duties; Plaintiff lost wages and impairment of his earning power and will continue to incur medical costs in the future to treat his injuries. Plaintiff

seeks compensation for his injuries, pain and suffering and all loss sustained as a result of the accident caused by Defendant.

II. Exhibits.

A. Medical Records as follows:

1. Thomas J. Ellis, DO
101 Regent Court
State College, PA 16801
2. Philipsburg Hospital
210 Lochlomand Road
Philipsburg, PA 16866
3. Jyotish Grover, M.D.
Lewistown Hospital, Pain Clinic
400 Highland Avenue
Lewistown, PA 17044
4. Todd B. Cousins, DO
University Orthopedic Center
101 Regent Court
State College, PA 16801
5. Gregory M. Bailey, DO
University Orthopedic Center
101 Regent Court
State College, PA 16801
6. Bruno Romeo, M.D.
820 Turnpike Avenue
Clearfield, PA 16830

B. 1998 thru 2006 IRS Individual Tax Returns of Mr. Roos

C. Social Security Administration Earnings Record of Mr.
Roos

D. Boilermakers National Health and Welfare Fund -

subrogation record and medical expense summary

- E. Boilermakers National Health and Welfare Fund Declaration of Trust
- F. Boilermakers National Health and Welfare Fund letter of March 28, 2005
- G. IRS letter of April 25, 1968 to Boilermakers National Health and Welfare Fund
- H. Boilermakers National Health and Welfare Plan (effective January 2001)
- I. Boilermaker Annuity Trust Statements
- J. Boilermaker Pension Trust Statements
- K. Boilermaker Job Description
- L. Assessment of Employment Potential by JSR Vocational & Consulting Services
- M. Curriculum Vitae of John S. Risser
- N. Photographs of damaged vehicles
- O. Photographs of Plaintiff
- P. Check receipts from CNB Bank from the account of Plaintiff for payment of medical expenses (9)
- Q. Any and all exhibits listed in Defendant's Pretrial Memorandum

III. Witnesses.

- A. John S. Risser, 5062 Ridge Road, Elizabethtown, PA

- B. Harold Roos, Jr., 2345 Rolling Stone Road, Morrisdale,
PA 16858-9002
- C. Joseph M. Murray, Business Manager of Boilermakers
Lodge No. 13, 2300 New Falls Road, Newportville, PA
19056
- D. Thomas J. Ellis, DO, 101 Regent Court, State College,
PA 16801
- E. Gregory M. Bailey, DO, University Orthopedic Center,
101 Regent Court, State College, PA 16801
- F. Tonya Pavalec, Boilermakers National Health & Welfare
Fund, 754 Minnesota Avenue, Suite 522, Kansas City, KS
66101
- G. Kim Sanders, Boilermakers National Health & Welfare
Fund, 754 Minnesota Avenue, Suite 522, Kansas City, KS
66101
- H. Any and all witnesses listed in Defendant's Pretrial
Memorandum

IV. Legal Theory & Citation.

Plaintiff's claim is based on the negligent operation of a motor vehicle. Plaintiff contends that Defendant violated certain rules of the road as set forth in the Pennsylvania Motor Vehicle Code. Those violations were the proximate cause of the accident and are therefore negligence per se.

Plaintiff was not contributory negligent.

V. Damages.

A. Liquidated Damages: lost income (please refer to report of John S. Risser), replacement services (please refer to report of John S. Risser), medical bills and expenses paid by Plaintiff, ERISA subrogation claim

B. Unliquidated Damages: pain and suffering

VI. Extraordinary Evidentiary Problems.

None.

VII. Stipulations.

A. Parties will stipulate that the Defendant, Robert W. Bish was negligent and that said negligence caused the accident.

VIII. Special Points for Charge.

None. Plaintiff requests the standard charges regarding lost income, lost services and pain and suffering.

IX. Estimated Time for Trial.

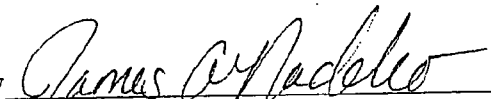
Two (2) days.

X. Reservations.

Plaintiff reserves the right to supplement this memorandum as may be necessary prior to trial.

NADDEO & LEWIS, LLC

By

A handwritten signature in cursive script, appearing to read "James A. Naddeo", written over a horizontal line.

James A. Naddeo

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF INDIANA COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff,

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation
Defendant.

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No. 05 - 357 - CD

Certificate of Service

I, James A. Naddeo, attorney for the plaintiff, do
hereby certify that a copy of Plaintiff's Pre-Trial Memorandum
was served on the following parties this 12th day of May, 2008:

First Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

**SUPPLEMENTAL PRE-TRIAL
MEMORANDUM**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: June 12, 2008

RECEIVED

JUN 12 2008

Court Administrator's
Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

SUPPLEMENTAL PRE-TRIAL MEMORANDUM

Plaintiff, Harold J. Roos, Jr., by and through his undersigned attorney hereby files the following supplement to Plaintiff's Pre-trial Memorandum, and in particular lists the following additional witnesses:

III. Witnesses.

I. Amanda Zwolski
Physical Therapist Assistant
210 Loch Lomond Road
Philipsburg, PA 16866

J. Pam Kephart
Physical Therapist Assistant
210 Loch Lomond Road
Philipsburg, PA 16866

K. Keith Hann
Physical Therapist Assistant
210 Loch Lomond Road
Philipsburg, PA 16866

IN THE COURT OF COMMON PLEAS OF INDIANA COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff,

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation
Defendant.

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No. 05 - 357 - CD

Certificate of Service

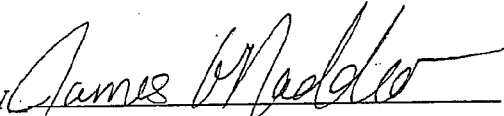
I, James A. Naddeo, attorney for the plaintiff, do
hereby certify that a copy of Plaintiff's Supplemental Pre-Trial
Memorandum was served on the following parties this 12th day of
June, 2008:

First Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By



James A. Naddeo

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

**SUPPLEMENTAL PRE-TRIAL
MEMORANDUM**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

RECEIVED

JUL 10 2008

Court Administrator's
Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.

Plaintiff,

v.

ROBERT W. BISH and TRIMOUNT, INC.

Defendants.

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No. 05 - 357 - CD

SUPPLEMENTAL PRE-TRIAL MEMORANDUM

III. Witnesses.

G. Thomas R. Granville, Pennsylvania State Police,
Woodland Barracks, 147 Doe Hill Road, Woodland,
Pennsylvania 16881

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF INDIANA COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff,

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation
Defendant.

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No. 05 - 357 - CD

Certificate of Service

I, James A. Naddeo, attorney for the plaintiff, do hereby certify that a copy of Plaintiff's Amended Pre-Trial Memorandum was served on the following parties this 10th day of July, 2008:

First Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By James A. Naddeo
James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2008, the Defendants' Motion in Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries is hereby GRANTED. Plaintiff is precluded from entering any evidence or testimony relating to the alleged injuries concerning:

1. lumbar sprain;
2. exacerbation of pre-existing degenerative changes to the lumbar spine;
3. bulging discs of the lumbar spine;
4. exacerbation of pre-existing degenerative changes to the cervical spine; and,
5. bulging discs of the cervical spine.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Motion in Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries** has been mailed to counsel of record via U.S. first class mail, postage pre-paid, this 10th day of September, 2008.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By: _____



Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for Defendants

610

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Brief in Support of Plaintiff's Fourth Motion in Limine was served on the following and in the following manner on the 12th day of September, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**SCHEDULING ORDER FOR
OBJECTIONS TO DEPOSITION
TESTIMONY OF
THOMAS J. ELLIS, D.O.**

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED 2cc
014:00/511 Amy Gill
SEP 22 2008
(610)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

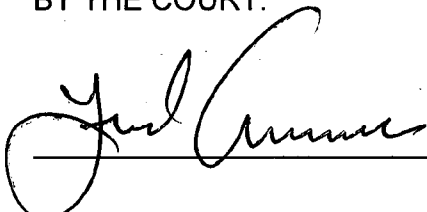
Defendants.

SCHEDULING ORDER

AND NOW, this 22 day of September, 2008, upon receipt of the Objections to Deposition Testimony of Thomas J. Ellis, D.O. filed by Defendants, Robert W. Bish and Trimount, Inc., it is ORDERED AS FOLLOWS:

Argument on Defendants, Robert W. Bish's and Trimount, Inc.'s Objections to Deposition Testimony of Thomas J. Ellis, D.O. shall be held on the 14th day of October, 2008 at 1:30 o'clock P.m. in the Clearfield County Courthouse, Courtroom No. 2.

BY THE COURT:

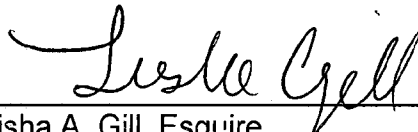

_____ J.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Scheduling Order** has been mailed to counsel of record via U.S. first class mail, postage pre-paid, this 15th day of September, 2008.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By: 
Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for Defendants

FILED

SEP 22 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/22/08

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants. -

CIVIL DIVISION

Docket No.: 2005-00357 CD

**SCHEDULING ORDER FOR
MOTION IN LIMINE TO PRECLUDE
EVIDENCE OF PLAINTIFF'S ALLEGED
BACK INJURIES**

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

FILED *ace*
014:00/24 Amy Gill
SEP 22 2008 *(610)*

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

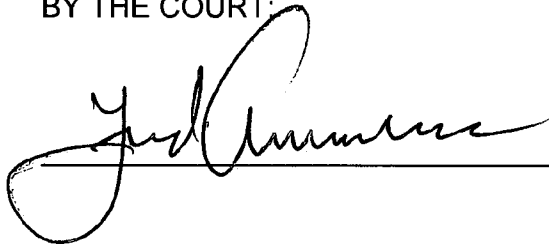
Defendants.

SCHEDULING ORDER

AND NOW, this 22 day of September, 2008, upon receipt of the Motion in Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries filed by Defendants, Robert W. Bish and Trimount, Inc., it is ORDERED AS FOLLOWS:

Argument on Defendants, Robert W. Bish's and Trimount, Inc.'s Motion in Limine to Preclude Evidence of Plaintiff's alleged Back Injuries shall be held on the 14th day of October, 2008 at 1:30 o'clock P.m. in the Clearfield County Courthouse, Courtroom No. 2.

BY THE COURT:

 J.

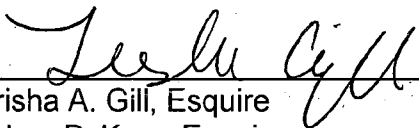
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Scheduling Order** has been mailed to counsel of record via U.S. first class mail, postage pre-paid, this 15th day of September, 2008.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

WALSH, COLLIS & BLACKMER, P.C.

By: _____


Trisha A. Gill, Esquire
Adam P. Knor, Esquire
Counsel for Defendants

FILED

SEP 22 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/22/08

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' OBJECTIONS
TO DEPOSITION TESTIMONY
OF THOMAS J. ELLIS, D.O.**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: October 2, 2008

FILED

OCT 02 2008

William A. Shaw
Prothonotary/Clerk of Courts

ICC ATTY

(61)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA, CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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No. 05 - 357 - CD

PLAINTIFF'S RESPONSE TO DEFENDANTS' OBJECTIONS TO
DEPOSITION TESTIMONY OF THOMAS J. ELLIS, D.O.

NOW COMES the Plaintiff, Harold Roos, Jr., and by his attorney, James A. Naddeo, Esquire, files the following response to Defendant's Objections to Deposition Testimony of Dr. Ellis and states as follows:

I. FACTUAL BACKGROUND

On or about June 27, 2003, Plaintiff was struck by a vehicle operated by Defendant (Deceased), Robert W. Bish, and instituted this action to recover damages that resulted from injuries sustained in the accident. At the time of the accident, Plaintiff was recovering from bilateral knee surgery that had been performed by Thomas J. Ellis, D.O. Plaintiff has been unable to return to his employment as a boilermaker since the accident.

Dr. Ellis has treated plaintiff as an orthopedic surgeon since 1996. Dr. Ellis authored a report with

respect to his treatment of plaintiff and injuries caused by the accident on December 30, 2005. The report stated in pertinent part as follows in answers to questions of plaintiff's counsel:

Question: Does the physical impairment derived from the auto accident prevent Mr. Roos from performing the duties of his regular employment as a boilermaker? His job duties included frequent stooping, bending, kneeling, crawling and climbing steps and ladders. He was also required to routinely carry weight in excess of 50 pounds.

Answer: Yes it does. I think this will clearly lengthen the time of physical therapy and overall healing. He is clearly going to be limited with regard to no stooping, bending, kneeling, crawling, or climbing activities. He would not be able to carry weight in excess of probably 15 pounds.

Question: If he is still experiencing physical impairment as a result of the trauma to his knees suffered in the auto accident, will that impairment be permanent?

Answer: I think it is unlikely that the impairment will be permanent due to such.

A true and correct copy of Letter by Attorney Naddeo on October 17, 2005 (containing questions above) and Dr. Ellis' December 30, 2005 report are attached hereto as Exhibits "A" and "B," respectively.

On September 21, 2007, Dr. Ellis authored a supplemental report. The report states in pertinent part, "It...continues to be my opinion that due to the nature of the blunt trauma this caused additional soft tissue

swelling, fibrous, and some scarring about his knees that **have hindered his recovery** in his postoperative course." True and correct copy of Supplemental Report of Dr. Ellis is attached hereto as Exhibit "C."

At his deposition Dr. Ellis testified that the last date that he saw plaintiff was April 21, 2008 and that at that visit plaintiff was treated with a MCL hinge brace for his ongoing knee pain. A true and correct copy of Deposition of Thomas James Ellis, D.O. is attached hereto as Exhibit "D." See Transcript P13:L1-16. During his testimony, the doctor further concluded, in pertinent part, as follows:

Q: Doctor, do you have an opinion as to what effect the automobile accident had on Mr. Roo's ability to return to his regular employment?

A: I think it hindered his ability to return to work.

Q: Based on the examination you made of the patient in April of this year, do you have an opinion as to whether he could return to his previous employment?

A: At the time I saw him in April he was not capable of returning to his previous type of job.

Defendant was provided copies of plaintiff's medical records including the April 21, 2008 record of Dr. Ellis prior to the deposition of the doctor. Defendant also had the vocational report of John S. Risser that stated with

certainty that Mr. Roos has no residual wage earning capacity and that the physical limitations which resulted from the motor vehicle accident would continue to prevent him from performing substantive work for the remainder of his working years. True and correct copy of Assessment of Employment Potential is attached hereto as Exhibit "E." See page 10 for referenced discussion. Defendant also had the Social Security Administration records which had determined Mr. Roos to be unable to perform any type of gainful work activity anywhere in the United States. (Defendant subpoenaed these records in March 2006.)

On May 18, 2006, defendant noticed plaintiff that he would be required to submit to an independent medical examination. Defendant employed Dr. John Perry to examine plaintiff. Dr. Perry authored a report on July 5, 2006 which provided his medical opinion with respect to Mr. Roos' physical limitations and how the same related to the motor vehicle accident. Dr. Perry concluded that Mr. Roos had contusions of both of the knees at the time the motor vehicle accident, but that he had recovered from the same. Mr. Roos' present knee symptoms were attributed by the doctor to his knee surgery and his weight. A true and correct copy of Report of Dr. Perry is attached hereto as Exhibit "F."

II. ARGUMENT

"Experts may testify at trial concerning matters which are within the fair scope of a pretrial report." Pascale v. Hechinger Company of Pennsylvania, 426 Pa. Super. 426, 435, 627 A.2d 750, 754 (1993). The purpose of the "fair scope rule" is to **avoid unfair surprise by enabling the adversary to prepare a response** to the expert testimony. Tiburzio-Kelly v. Montgomery, 452 Pa. Super. 158, 681 A.2d 757, 764 (Pa. Super. 1996). In determining whether an expert's trial testimony falls within the fair scope of his pre-trial report, the court must determine "whether the report provides sufficient notice of the expert's theory **to enable the opposing party to prepare a rebuttal witness.**" Id. at 765. As defendant itself states, in deciding the question of whether an expert's testimony is within the fair scope the accent is on the word "fair." The question to be answered is **under the particular facts and circumstances of the case**, is the discrepancy between the expert's pre-trial report and his trial testimony of a nature that would **prevent the adversary from making a meaningful response.** Chanthavong v. Tran, 452 Pa. Super. 378, 682 A.2d 334, 340 (Pa. Super. 1996).

a. Dr. Ellis' Testimony Regarding Plaintiff's Inability to Work is Within the Fair Scope of His Reports

Dr. Ellis was asked by plaintiff's counsel if the physical impairment derived from the auto accident **prevented Mr. Roos from performing the duties of his regular employment** as a boilermaker (with description of physical requirements provided). Dr. Ellis' response was "**Yes it does....**He is clearly going to be limited with regard to no stooping, bending, kneeling, crawling, or climbing activities. He would not be able to carry weight in excess of probably 15 pounds." See Exhibits A and B. The doctor was also asked to address the permanency of the physical impairment in his first report and he did so.

In his supplement report Dr. Ellis stated that the nature of the blunt trauma (of the accident) caused additional soft tissue swelling, fibrous, and some scarring about his knees **that have hindered his recovery**. This report was authored by the doctor on September 21, 2007, four years post-accident at a time when all parties involved, especially and including the doctor, were aware that plaintiff was never able to return to his employment as a Boilermaker.

Thus, the doctor addressed the effect the physical impairments resulting from the accident had upon the

plaintiff's ability to perform his work related duties and he addressed the permanency of the injury. The doctor's testimony regarding the same is within the fair scope of the reports provided which address his work performance, how it was hindered and the permanency of the injuries.

b. In View of the Facts of the Case and Opinions Provided There Is No Reasonable Argument by Defendant that It Was Unfairly Surprised as to the Doctor's Testimony that Plaintiff Was Unable to Return to Work and that the Automobile Accident Hindered His Ability to Return to Work

Defendant argues that because two years earlier the doctor stated that it was "unlikely" that the physical impairment resulting from the accident would be permanent that it was unfairly surprised. The mere fact that the doctor used the word "unlikely" indicates that he was not certain of the permanency of the injury at the time the report was written. The question to the doctor was would the impairment be permanent? He could have answered with a "Yes" or "No," but he did not. Instead he addressed the fact that at that time he could not answer yes or no and he gave his best estimation **at that time.**

However, having a doctor state two years later that the direct physical symptoms of the motor vehicle accident have "hindered his recovery," when it is common knowledge to all at that time that the patient has never returned to

his employment, is equivalent to stating that it has hindered his ability to return to work. Noting the doctor's words at the deposition were exactly that, he stated "I think it hindered his ability to return to work."

The court in Feden v. Consolidated Rail Corp., 746 A.2d 1158 (Pa. Super. 2000) found that an accurate statement of the law is that an expert's testimony exceeds the fair scope of his report **only if** the facts and opinions to which the expert would testify **are unknown to the opposing party such as to cause unfair surprise**. In Feden the court held that the expert's testimony that the plaintiff was diagnosed with posttraumatic stress disorder was within the fair scope of the expert's report which did not include an official diagnosis of the disorder. Defendant objected that the doctor in the report stated that the patient "suffered from posttraumatic stress disorder *traits*," not that he was diagnosed with the disorder. The trial court excluded the expert's testimony and the Superior Court held this was reversible error.

In the case at bar, the facts of the case were such that defendant was fully aware that plaintiff was unable to return to work, that he had not returned to work since the accident, that he had a social security disability determination that he was unable to engage in any gainful

work activity, that a vocational report concluded that as a result of the motor vehicle accident, plaintiff would be unable to obtain any substantive earning capacity, that the doctor who authored the supplemental report of course knew plaintiff had never been able to return to his pre-accident work and that almost five years post accident the doctor who authored the report was continuing to treat plaintiff for the same physical symptoms that resulted from the accident. Defendant upon the facts and circumstances of this case cannot make a reasonable argument that he was surprised by the doctor's statement in his testimony. As the court held in Feden testimony exceeds the fair scope of the report only if the facts and opinions which the expert would testify are unknown to the opposing party such that it causes unfair surprise. The defendant in this case was well aware of the facts and opinions to which the expert testified and there was no surprise.

c. Defendant Was Not Misled. Defendant Prepared a Meaningful Response by It's Own Expert. Defendant Was Not Prejudiced in Any Manner.

As stated supra the pivotal question is whether the trial testimony alleged to be outside the scope of the expert report is such that the defendant cannot make a meaningful response. Chanthathong v. Tran, 452 Pa. Super. 378 (Pa. Super. 1996); Tiburzio-Kelly, 452 Pa. Super. 158

(Pa. Super. 1996) (Question is whether the report provides sufficient notice of the expert's theory to enable the opposing party **to prepare a rebuttal witness.**) In Tiburzio-Kelly the court held that the expert report which referenced departures from the standard of care by *first call anesthesiologists* and the anesthesiologist service was sufficient to put the defendant on notice that the expert would testify directly against an entity "Anesthesia Associates of Bryn Mawr." The trial court held that the plaintiff could not proceed directly against defendant, Anesthesia Associates of Bryn Mawr for its negligence as a separate entity because the defendant was not on notice of the same by the report of the expert. In other words, the argument by defendant was that the report of the expert did not directly state the Anesthesia Associates of Bryn Mawr breached their standard of care. The Superior Court disagreed holding that the report of the expert which referenced "first call anesthesiologists" breach of the standard care was sufficient to place defendant on notice and defendant could not properly argue surprise or that it was not able to prepare a rebuttal witness. Id. at 171-176.

Defendant in this case had the plaintiff examined by its own independent medical examiner. It hired an expert in direct response to the opinions offered by plaintiff's

experts. Dr. Perry the expert employed by defendant to rebut plaintiff's expert witnesses authored a report that is contrary to the conclusions reported and testified to by plaintiff's treating physician.

Defendant thus had its rebuttal witness prepared in this case. There is absolutely no prejudice to defendant where it has a rebuttal witness prepared to offer testimony in direct contradiction to plaintiff's expert's testimony that it is asking the court to exclude.

d. Dr. Ellis' Testimony Regarding the Examination He Made of the Plaintiff in April 2008 is Admissible as His Treating Physician

Treating physicians are subject to Pa.R.C.P. 4003.5, which requires experts to be identified prior to trial and to furnish an expert report setting forth their opinions, only to the extent that the opinions are acquired or developed in anticipation of litigation. Records, treatment and opinions that are not acquired or developed in anticipation of litigation are not subject to the rule. Miller v. Brass Rail Tavern, Inc., 541 Pa. 474 (Pa. 1995). Plaintiff's visit to the doctor in April 2008 is not subject to Pa.R.C.P. 4003.5 as plaintiff simply attended an appointment with his physician as he needed the same. The doctor's testimony is not limited by the discovery rules when it is care provided in the regular course as a

treating physician. In other words, the "fair scope rule" applies to a treating physician only to the extent that his opinions are acquired or developed in anticipation of litigation. Thus, when the doctor authors a report at the request of plaintiff's counsel these conclusions would properly have been made in anticipation of litigation. However, had the doctor written the same conclusions or other conclusions in his own medical records not prepared in anticipation for litigation these would be admissible testimony by the doctor whether they were part of a report or not. Plaintiff's examination by his treating physician at a regularly scheduled visit is the type of record that a treating physician can testify to irrespective of the "fair scope rule."

Defendant wants to force plaintiff into some undefined "litigation box" for his treatment that simply does not exist in reality. Plaintiff's pain and symptoms do not stop because his doctor authored a report. Plaintiff does not live in a vacuum created to appease defense counsel with respect to reports provided. Plaintiff must continue to live and treat as needed with his doctor. His treating physician is always able to testify to his continued treatment, especially when defendant is on notice that the doctor has been his treating physician for 12 years.

e. Should This Court Find Dr. Ellis' Testimony Regarding Treatment at the April 2008 Visit Subject to the "Fair Scope Rule" It Is Within the Fair Scope of His Report

Dr. Ellis in his report of December 30, 2005 and his report of September 21, 2007 references that he performed a total knee arthroplasty on Mr. Roos "his patient." See Exhibits B and C. Dr. Ellis is reported to defendant as plaintiff's treating physician in all discovery in this case. It is also clear from the medical records and the reports of the doctor that Mr. Roos continued to treat with Dr. Ellis. Defendant had in its possession all medical records of plaintiff which evidence ongoing treatment by Dr. Ellis. These records also evidence the fact that Mr. Roos had been treating with Dr. Ellis since 1996 through 2008.

Therefore, under the facts and circumstances of this case it is within the scope of the treating physician's report that the patient would continue to treat with the doctor and it is within the scope of his report for the doctor to testify to the continued treatment and examinations by the doctor.

Plaintiff is at a loss as to how the defendant could be "surprised" that plaintiff visited his treating physician which defendant again had records of plaintiff's

treatment with this doctor from 1996 through 2008. It is ludicrous for defendant to argue that it was surprised that a treating physician would continue to treat his patient and therefore, was surprised that he would testify to that continued treatment.

Furthermore, as argued supra defendant is not prejudiced in any manner as defendant prepared a rebuttal witness in this case.

f. Dr. Ellis' Testimony with Respect to Dr. Perry

Defendant has not listed Dr. Perry as an expert witness that it will call at trial. For this reason and this reason only, plaintiff agrees that testimony with respect to Dr. Perry is inadmissible.

WHEREFORE, Plaintiff respectfully requests this Honorable Court overrule defendant's objections to deposition testimony of Dr. Ellis and permit his deposition testimony without limitation as to the extent of plaintiff's injuries and the effect the injuries have had upon his ability to perform his pre-accident job. With respect to testimony referencing Dr. Perry, plaintiff requests the same be excluded by plaintiff's expert only in

the event that the defense does not call Dr. Perry testify.

Respectfully submitted,

By James A. Naddeo
James A. Naddeo, Esquire
Counsel for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

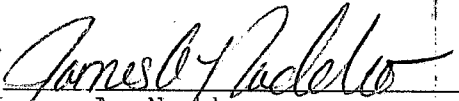
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Plaintiff's Response to Defendant's Objections
to Deposition Testimony of Thomas J. Ellis, D.O. was served on the
following and in the following manner on the 2nd day of October,
2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:



James A. Naddeo

Attorney for Plaintiff

JAMES A. NADDEO
ATTORNEY AT LAW
207 EAST MARKET STREET
P.O. BOX 552
CLEARFIELD, PENNSYLVANIA 16830

ASSOCIATE
LINDA C. LEWIS

(814) 765-1601
FAX: (814) 765-8142
naddeolaw@atlanticbnn.net

October 17, 2005

Thomas J. Ellis, DO
University Orthopedics Center
101 Regent Court
State College, PA 16801

RE: Harold J. Roos, Sr.
Automobile Accident: 06/27/03

Dear Dr. Ellis:

I represent your patient, Harold J. Roos Sr., who was involved in an automobile accident on June 27, 2003. Approximately six weeks prior to Mr. Roos's accident, you replaced both of his knees. Mr. Roos informed me that he was recovering very well from the surgery until the intervening accident. Both of my client's knees struck the dashboard of his vehicle at the time of the accident.

I would ask that you provide me with a medical report that addresses the following questions:

1. Did your patient's auto accident of June 27, 2003 damage the new replacements installed by you in May of 2003?

2. If so, is this patient currently suffering any physical impairment resulting to the exacerbation of his pre-existing injury?

3. If he is still experiencing physical impairment as a result of the trauma to his knees suffered in the auto accident, will that impairment be permanent?

4. Does the physical impairment derived from the auto accident prevent Mr. Roos from performing the duties of his regular employment as a

Exhibit "A"

Thomas J. Ellis, DO

October 17, 2005

Page 2

boilermaker. His job duties included frequent stooping, bending, keeling, crawling and climbing steps and ladders. He was also required to routinely carry weight in excess of 50 pounds.

Please express your answers to the foregoing questions within a reasonable degree of medical certainty. I am enclosing a medical authorization for your records.

Sincerely,

James A. Naddeo

JAN/lcl

Enclosure

Cc: Harold J. Roos, Sr.



JAN 09 2006

Kenneth L. Cherry, MD

Douglas E. Roeshot, MD

Edwin J. Rogusky, MD

Thomas J. Ellis, DO

Paul V. Suhey, DO

James S. Martin, MD

David M. Joyner, MD

Todd B. Cousins, DO

G. M. Bailey, DO

William A. Tyndall, MD, PhD

Bradley A. Barter, DO

Keith M. Zora, DO

Jack F. Rocco, MD

Christopher S. McClellan, DO

Paul D. Lamb, DC

December 30, 2005

Attorney James A. Naddeo
207 East Market Street
PO Box 552
Clearfield, PA 16830

RE: HAROLD J. ROOS, SR.
DATE OF ACCIDENT: 06-27-03

Dear Attorney Naddeo:

This letter is in response to your letter dated October 17, 2005, regarding your client and my patient, Harold J. Roos, Sr. As you know Mr. Roos underwent previous knee arthroscopies and subsequently underwent total knee arthroplasty on May 7, 2003. He underwent uncomplicated total knee arthroplasty using a Salzer implant. His postoperative course was proceeding as expected when he was involved in a motor vehicle accident on June 27, 2003. At that time, his knees had struck the dashboard of the vehicle.

In response to Question #1, the soft tissue healing component of the surgery was clearly slowed and compromised at that particular period of time. There is no evidence that the implants were broken or detached or had come loose at that time, though.

Question #2 – The motor vehicle accident from June of 2003 clearly slowed down the entire healing process due to a trauma in the postoperative period. It is my opinion that this lengthened the overall recovery period.

Question #3 – I think it is unlikely that the impairment will be permanent due to such.

Question #4 – Yes it does. I think this will clearly lengthen the time of physical therapy and overall healing. He is clearly going to be limited with regard to no stooping, bending, kneeling, crawling, or climbing activities. He would not be able to carry weight in excess of probably 15 pounds.

101 Regent Court State College, PA 16801 (814) 231-2101 FAX (814) 231-8569
2525 9th Avenue Suite 2B Altoona, PA 16602 (814) 949-4050
12 North Dorcas Street Lewistown, PA 17044 (717) 242-1522

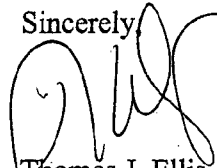
Exhibit 4B11

Attorney James A. Naddeo
RE: HAROLD J. ROOS, SR.
December 30, 2005
Page 2

All opinions are based upon a reasonable degree of medical certainty.

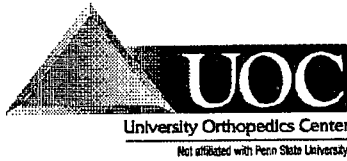
If I can be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'TJ Ellis', written over the word 'Sincerely,'.

Thomas J. Ellis, DO

TJE/ram



September 21, 2007

Kenneth L. Cherry, MD

Douglas E. Roeshot, MD

Edwin J. Rogusky, MD

Thomas J. Ellis, DO

Paul V. Suhey, DO

James S. Martin, MD

David M. Joyner, MD

Todd B. Cousins, DO

G. M. Bailey, DO

William A. Tyndall, MD, PhD

Bradley A. Barter, DO

Keith M. Zora, DO

Jack F. Rocco, MD

Christopher S. McClellan, DO

Paul D. Lamb, DC

James A. Naddeo
Naddeo & Lewis, LLC
207 East Market Street
PO Box 552
Clearfield, PA 16830

RE: Harold J. Roos, Sr.
DOB: 11/26/51
Automobile Accident: 6/27/03

Dear Attorney Naddeo:

Mr. Roos as you know underwent an uncomplicated total knee arthroplasty on May 7, 2003. He was subsequently involved in a motor vehicle accident on June 27, 2003. He at that time had struck his knees on the dashboard. It was my opinion at that time and continues to be my opinion that due to the nature of the blunt trauma this caused additional soft tissue swelling, fibrous, and some scarring about his knees that have hindered his recovery in his postoperative course. This was due to the direct trauma from the motor vehicle accident and was above and beyond what would be normally considered postsurgical trauma from a total knee arthroplasty.

I hope this further clarifies the situation. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Thomas J. Ellis, D.O.

TJE/rkm

101 Regent Court State College, PA 16801 (814) 231-2101
476 Rolling Ridge Drive State College, PA 16801 FAX (814) 231-8569
1505 9th Avenue Altoona, PA 16602 (814) 949-4050
12 North Dorcas Street Lewistown, PA 17044 (717) 248-4664

Exhibit "C"

AUG 12 2008

IN THE COURT OF COMMON PLEAS
OF
CLEARFIELD COUNTY, PENNSYLVANIA

HAROLD J. ROOS, JR.,
an individual, Plaintiff

CIVIL DIVISION
NO. 2005-357-CD

ROBERT W. BISH and
TRI MOUNT, INC., a corporation,
Defendant

PROCEEDINGS: Deposition of
THOMAS JAMES ELLIS, D.O.
DATE: Monday, July 21, 2008
7:15 - 8:00 a.m.
PLACE: University Orthopedics Center
101 Regent Court
State College, PA 16801
REPORTED BY: Maryann Cornelius
Freelance Court Reporter
Notary Public

MARYANN CORNELIUS
Freelance Court Reporter
339 Southmont Boulevard
Johnstown, PA 15905
(814) 536-7405
or
(814) 241-2121

MARYANN CORNELIUS (814) 536-7450

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APPEARANCES

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STIPULATION

It is hereby stipulated by and between counsel for
the respective parties that sealing, certification, and filing
are waived, and that all objections except as to the form of
the question are reserved to the time of trial.

THOMAS J. ELLIS, D.O., called as a witness, being
sworn, testified as follows:

EXAMINATION

BY MR. NADDEO:

- Q Your full name, please.
A Thomas James Ellis.
Q What is your occupation?
A Orthopedic surgeon.
Q How long have you been an orthopedic surgeon?
A 15 years.
Q Where do you maintain your practice?
A University of Orthopedics, 101 Regent Court, State
College, PA.
Q How long have you maintained your practice at that
address?
A 15 years.
Q Are you board certified in orthopedic surgery?

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Exhibit "D"

- 1 A Yes, sir.
- 2 Q What does it mean to be board certified?
- 3 A It means that you have completed an accredited
- 4 residency program and you have taken the appropriate oral and
- 5 written testing to be deemed by the Board to be competent to
- 6 practice orthopedic medicine.
- 7 Q Do you specialize in any particular type of
- 8 orthopedics?
- 9 A Knee and shoulder reconstructions primarily.
- 10 Q Are you licensed to practice medicine in the
- 11 Commonwealth of Pennsylvania?
- 12 A Yes.
- 13 Q How long have you been licensed?
- 14 A 17 years.
- 15 Q Are you a member of any medical staff?
- 16 A Yes.
- 17 Q How many?
- 18 A Two.
- 19 Q The institutions, please.
- 20 A The Mount Nittany Medical Center and Altoona
- 21 Regional.
- 22 Q Do you have any research experience in the field of
- 23 orthopedic surgery?
- 24 A When I was a resident, I had written some papers
- 25 which are listed on my C.V. there (indicating).

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- 1 A Philadelphia College of Osteopathic Medicine.
- 2 Q Where did you receive your undergraduate degree?
- 3 A Penn State.
- 4 Q Are you affiliated with any medical societies or
- 5 organizations?
- 6 A Yes.
- 7 Q And are the same organizations listed in your
- 8 Curriculum Vitae?
- 9 A Yes, sir.
- 10 Q Have you published any papers specifically dealing
- 11 with the field of orthopedic medicine?
- 12 A As a resident, papers submitted for publication,
- 13 there's a list.
- 14 Q Have you received any awards and honors pertinent to
- 15 your specialty as an orthopedic surgeon?
- 16 A I have received an award for distinguished, number
- 17 one in the country for my boards, my orthopedic surgical
- 18 boards.
- 19 Q Okay. Doctor, prior to your deposition your office
- 20 provided me with a copy of your Curriculum Vitae which
- 21 basically is a compilation of some of the information to which
- 22 you just testified, is that correct?
- 23 A Correct.
- 24 Q Is it accurate?
- 25 A Yes, sir.

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- 1 Q The research experience indicates a post-operative
- 2 arthroscopic pain study in February of 2004?
- 3 A Correct.
- 4 Q And also chronic, moderate to severe OA pain of the
- 5 hip and knee in January of 2004?
- 6 A Correct.
- 7 Q Research experience with distal radius fractures
- 8 study in November of 2003?
- 9 A Correct.
- 10 Q Ongoing trial for painful shoulders in June of 2003?
- 11 A Correct.
- 12 Q Doctor, did you serve a fellowship?
- 13 A Yes, sir.
- 14 Q Where?
- 15 A Pennsylvania State University here in State College
- 16 with Penn State football and in Hershey with the trauma
- 17 center.
- 18 Q Did you do a residency?
- 19 A Yes, sir.
- 20 Q Where was your residency?
- 21 A The University of Dentistry -- Medicine and
- 22 Dentistry of New Jersey.
- 23 Q Internship?
- 24 A The same institution, UMDNJ.
- 25 Q Your medical education?

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- 1 MR. NADDEO: I would ask that this (indicating) be
- 2 marked as Ellis Exhibit Number 1.
- 3 (Curriculum Vitae marked as Ellis Exhibit No. 1.)
- 4 BY MR. NADDEO:
- 5 Q And would you briefly explain to the jury what the
- 6 definition, if there is one, of orthopedic medicine?
- 7 A Basically it is the practice of medicine in which we
- 8 deal with primarily bones, joints, ligamentous soft tissue,
- 9 portions of the anatomy, take care of damaged joints or
- 10 damaged ligaments.
- 11 Q How many patients do you see in a day on average?
- 12 A Anywhere between 55 to 65 a day.
- 13 Q How many of those are new patients?
- 14 A 15 to 20.
- 15 MR. NADDEO: Counsel, do you have any questions
- 16 concerning the doctor's qualifications?
- 17 MS. GILL: Absolutely none.
- 18 BY MR. NADDEO:
- 19 Q Dr. Ellis, are you acquainted with Mr. Harold Roos,
- 20 R-O-O-S?
- 21 A Yes, sir.
- 22 Q How did he come into your service?
- 23 A It would be -- according to the office records, I
- 24 have a note dated December 9th, 1996. It looks like it was
- 25 the initial visit. At that time he was a 43 year old white

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- 1 male who related having bilateral knee pain. Basically he had
 2 a previous meniscectomy by a Dr. Myron Sevicik 25 years ago
 3 from a football injury. He was currently working as a
 4 boilermaker who had basically presented with complaints of
 5 knee pain.
 6 Q So you originally saw him in 1996?
 7 A Correct.
 8 Q Was he referred to you -- were you referred to him
 9 by some other physician -- or, pardon me, was he referred to
 10 you by some other physician?
 11 A I'm not really sure how he got referred to me.
 12 Q Did you eventually recommend any treatment for his
 13 bilateral knee pain?
 14 A We recommended doing an arthroscopic knee
 15 examination.
 16 Q Did you eventually perform any type of surgery to
 17 correct his bilateral knee pain?
 18 A He subsequently had a left knee arthroscopy on
 19 January 8th of '97. At that time he had a tear of his medial
 20 meniscus and a grade four chondromalacia lesion of his tibial
 21 plateau.
 22 Q I'm sorry, which knee was that?
 23 A The left knee.
 24 Q Left knee. Okay. Any further treatment on either
 25 knee?

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- 1 A Yes. Eventually on May 7th of 2003 he underwent a
 2 bilateral total knee replacement.
 3 Q Where was that surgery performed?
 4 A At that time Centre Community Hospital.
 5 Q And who performed that surgery?
 6 A I did.
 7 Q Did you consider that surgery to be successful?
 8 A Yes.
 9 Q How did Mr. Roos manage in his post-operative care?
 10 A He was doing fine initially.
 11 Q Did you discuss with him the possibility of
 12 returning to work following the bilateral knee surgery?
 13 A We discussed the possibility of him recovering and
 14 then potentially going back to work.
 15 Q And to your knowledge was that his intention?
 16 A That was his intention.
 17 Q Following the bilateral knee surgery was there
 18 anything in his post-operative course to indicate to you that
 19 he would not be able to return to work?
 20 A Subsequently he was involved in a motor vehicle
 21 accident in June -- on June 27th of '03, when his knees had
 22 struck the dashboard postsurgically which caused a major
 23 setback.
 24 Q Now, when you say a major setback, could you please
 25 explain how that -- how the mechanics of that automobile

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- 1 A Subsequently, a right knee arthroscopy on October
 2 17th of 2002.
 3 Q And for what reason was that procedure performed?
 4 A A torn meniscus right knee, torn lateral meniscus
 5 right knee, grade four medial femoral condyle.
 6 Q Did you determine the cause of the torn meniscus in
 7 the left knee?
 8 A In the left knee?
 9 Q Yes.
 10 A I attributed it to the type of work he was doing as
 11 a boilermaker.
 12 Q And how about the right knee?
 13 A The same thing.
 14 Q Were you familiar with this man's job?
 15 A I knew he worked as a boilermaker.
 16 Q Did he describe the type of work that he did?
 17 A I was under the impression he did a lot of kneeling,
 18 stooping, squatting, up, down, climbing positions.
 19 Q And would that be consistent with the type of
 20 conditions that you treated --
 21 A Yes.
 22 Q -- for his left and right knee?
 23 A Yes, it would.
 24 Q Okay. Did Mr. Roos eventually require knee
 25 replacement surgery?

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- 1 accident would have set back his recovery?
 2 A Well, basically increased pain, inflammation, loss
 3 of motion. He had some -- basically a traumatic event in the
 4 period of his surgical recovery that slowed down his -- his
 5 process down.
 6 Q Is there an average normal recovery period for the
 7 bilateral knee surgery?
 8 A Well, everybody is different, really, how fast they
 9 come along, but there is a certain expectation of the gains
 10 that one would normally make. Some people tend to be ahead of
 11 the curve, some tend to be behind the curve, but most sort of
 12 follow the pack of where they are. If you can picture a
 13 bell-shaped curve, most people are clustered together with,
 14 obviously, some in front and some are way behind.
 15 Q Let's talk about what would be the inside of the
 16 curve.
 17 A The inside of the curve would show weekly
 18 progression, for example, in range of motion. There would be
 19 weekly decreases in swelling, decreases in leg swelling,
 20 increases in endurance. The patient would be able to walk
 21 further and further each week and as time went on, the ability
 22 to kneel and squat. They would be able to do more normal
 23 things with the knee.
 24 Q When I talk about the inside of the curve, I'm
 25 talking about the length of recovery, if someone has better

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1 than average recovery?

2 A Typical length of recovery you can usually tell in
3 -- usually knee replacements take a year to recover, even a
4 year to two. If it's better than a year, one to two years,
5 and it may fluctuate or plateau, and then at that point that's
6 what they tend to live with.

7 Q Now during that first year of recovery, would a
8 person be able to perform the duties of employment comparable
9 to what Mr. Roos did, at least as you understood those duties?

10 A Some people may and others may not depending upon
11 how fast they -- they particularly recover.

12 Q Okay. To what extent did the auto accident impact
13 Mr. Roos's recovery?

14 A It seemed he went backwards about half.

15 Q Which in terms of time for recovery would do what?

16 A It would increase his whole process; meaning, it may
17 double his earlier-on recovery, his realized recovery. Each
18 week continues to get better in the first two months after
19 surgery, and usually more gains are made during the last six
20 to nine months. As far as -- most patients tend to be -- will
21 continue quicker at first and then will slow down in their
22 progress during the initial steep curve. And that part of his
23 recovery, that was clearly going to be lengthened, if you
24 will, by this new trauma to his newly traumatized knees.

25 Q When is the last time you saw this patient?

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1 Q Based on the examination you made of the patient in
2 April of this year, do you have an opinion as to whether he
3 could return to his previous employment?

4 MS. GILL: The same objection.

5 THE WITNESS: At the time I saw him in April he was
6 not capable of returning to his previous type of job.

7 BY MR. NADDEO:

8 Q Do you have an opinion as to the cause of his
9 inability to return to that employment?

10 MS. GILL: The same objection.

11 THE WITNESS: I think the cause is directly related
12 to the fact he had bilateral knee replacement surgery
13 which was exacerbated by the post-op motor vehicle
14 injury.

15 BY MR. NADDEO:

16 Q Doctor, prior to your deposition you had an
17 opportunity to review a report authored by a Dr. William
18 Perry?

19 MS. GILL: I'm going to object to any questions
20 regarding Dr. Perry's report; it's hearsay and there is
21 no foundation.

22 THE WITNESS: Yeah, I briefly just looked at this
23 (indicating).

24 BY MR. NADDEO:

25 Q You did review his conclusions?

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1 A April 21st of 2008.

2 Q And, Doctor, you've been treating him, I understand,
3 since 1996?

4 A Yes.

5 Q Through April of this year?

6 A Yes.

7 Q What were his complaints in April of this year?

8 A He had complaints of lateral knee pain and he also
9 had a left locking trigger thumb.

10 Q Did you recommend any treatment for those
11 conditions?

12 A We did. Therapy for his knees and I also placed him
13 in a MCL hinge brace.

14 Q Is that a hinge brace?

15 A It is a particular type of brace that has a hinge on
16 the side for stabilization and support.

17 Q Doctor, do you have an opinion as to what effect the
18 automobile accident had on Mr. Roos's ability to return to his
19 regular employment?

20 MS. GILL: Objection. It's beyond the scope of his
21 report.

22 MR. NADDEO: You can answer the question.

23 THE WITNESS: I think it hindered his ability to
24 return to work.

25 BY MR. NADDEO:

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1 A Yes.

2 Q Do you agree with those conclusions?

3 A Well, some of the conclusions are related to parts
4 of Mr. Roos's anatomy for things that I was not treating.

5 Q Okay. Doctor, I'm asking only in reference to those
6 parts of Mr. Roos's anatomy that you treated, specifically his
7 knees.

8 A No, not entirely.

9 MS. GILL: Can I have an ongoing objection regarding
10 questioning Dr. Perry and --

11 MR. NADDEO: Yes.

12 MS. GILL: Thank you.

13 BY MR. NADDEO:

14 Q In what respect do you disagree with him?

15 A I'm reading from -- he's saying here (indicating),
16 in my opinion it is -- as being a result of the motor vehicle
17 accident, there were no complaints of cervical spine -- let me
18 back up.

19 Mr. Roos had contusions of both knees following the
20 motor vehicle accident. I agree. I can find no evidence from
21 the chart to indicate he had any other significant injuries at
22 that time. His knees have recovered from the contusions. I
23 agree they have completely recovered from the contusions. He
24 goes on to say that the symptoms with regard to these are
25 related to his surgery and his weight.

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1 I would agree that the symptoms are due to the
2 surgery, but I also think the motor vehicle accident
3 contributed in causing some scarring and stiffness in his
4 knees. It was more than would have been present had the
5 accident not occurred.

6 Q Doctor, have the opinions that you've expressed
7 during the course of your testimony been expressed within a
8 reasonable degree of medical certainty?

9 A Yes.

10 Q Okay.

11 MR. NADDEO: I have no further questions.

12 MS. GILL: Before I start to ask you questions,
13 could I look at the Doctor's chart.

14 (Ms. Gill reviews chart.)
15

16 CROSS-EXAMINATION

17 BY MS. GILL:

18 Q Good morning, Doctor.

19 A Good morning.

20 Q You've been treating Mr. Roos for his knee problems
21 as far back as 1996?

22 A Correct.

23 Q Okay. And I believe you testified that in December
24 of '96 he first came to you complaining of bilateral knee
25 pain?

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1 didn't return him to work after his total knee replacement
2 surgery, did you?

3 A I don't recall ever returning him to work, no.

4 Q Okay. In fact, it was doubtful that he would be
5 able to return to work as a boilermaker because of the
6 pressure that that would impact on his knees, correct?

7 A There was a question and we went into procedures as
8 to whether he would ever return to that kind of work.

9 Q Okay. Now taking a look at the physical therapy
10 notes on June 25th, 2003, that was just two days before his
11 motor vehicle accident and he was doing well, is that your
12 understanding?

13 A I don't have a copy of the therapy notes here.

14 Q I'll show it to you, Doctor (indicating). Before I
15 ask you questions -

16 A Which date?

17 Q June 25th, 2003. Before I ask you questions is it
18 normal and - is it customary for doctors to rely upon medical
19 records of other providers when treating patients?

20 A Yes.

21 Q Okay. As of June 25th, 2003, just two days before
22 this accident, at least according to the therapy notes, Mr.
23 Roos was doing well?

24 A Correct.

25 Q And would you agree that the therapist reported that

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1 A Correct. And he reported a prior meniscectomy 25
2 years before due to a football injury?

3 A Correct.

4 Q Okay. And at that time, if I'm reading your notes
5 correctly, you felt that he was too young for a total knee
6 replacement at that time because of his line of work?

7 A Correct.

8 Q Okay. He continued to treat with you through,
9 roughly, three years when he did have that total knee
10 replacement -- I'm sorry. He continued to treat with you over
11 the years until he did have that total knee replacement in May
12 of 2003?

13 A Correct.

14 Q And that was an uncomplicated procedure?

15 A Correct.

16 Q Now after his total knee replacement did you order
17 him to go under a regime of physical therapy?

18 A Yes.

19 Q And where was that physical therapy done?

20 A I'm not sure off the top of my head where he did his
21 physical therapy.

22 Q Is that Philipsburg?

23 A Okay. If it was in Philipsburg, then probably at

24 Drayer in Philipsburg.

25 Q Okay. And depending on my objections previously you

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1 his flexion, range of motion was 120 degrees?

2 A Correct.

3 Q Okay. And he also reported essentially full
4 extension at that time?

5 A Correct.

6 Q Okay. He hadn't been discharged from therapy as of
7 June 27th, the date of this accident, had he?

8 A No.

9 Q In fact, he was still continuing in physical therapy
10 care at that time?

11 A Correct.

12 Q Okay. Now the motor vehicle accident occurred on
13 June 27th. He was able to get out of the vehicle and walk on
14 his own, wasn't he?

15 A Yes.

16 Q Okay. And x-rays at the hospital on the day of this
17 accident showed that there was no fracture or dislocation or
18 any loosening of his knee processes?

19 A Correct.

20 Q And after the motor vehicle accident he was
21 diagnosed with contusions and abrasions?

22 A Correct.

23 Q All right. And your first treatment of Mr. Roos
24 after this motor vehicle accident was on July 2nd, 2003, is
25 that accurate?

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- 1 A Let me see. I go from June 9th, '03, and then I go
2 to August 4th.
- 3 Q Okay. I have your July 2nd, 2003 note, if you want
4 to take a look at that (indicating). Mine has yellow
5 highlight on it, you just disregard that.
- 6 A Okay.
- 7 Q You did treat him on July 2nd, 2003?
- 8 A Yes.
- 9 Q And at that time didn't another set of x-rays
10 confirm that there was no loosening or fracture of the knee
11 replacement?
- 12 A Correct.
- 13 Q And you had advised that he should continue his
14 current physical therapy regime and follow-up with you during
15 his regularly scheduled appointment?
- 16 A Correct.
- 17 Q Okay. And did you come to learn that he did in fact
18 continue his physical therapy regime?
- 19 A Yes.
- 20 Q Okay. In fact, I believe on the very same day he
21 treated with you he went to physical therapy, isn't that
22 correct, on July 2nd, 2003?
- 23 A Correct.
- 24 Q And at that time the therapist noted that he had
25 been reviewed medically and orthopedically and he was found to

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- 1 A Correct.
- 2 Q And at that time his knee range of motion was nearer
3 the 130 degrees?
- 4 A Correct.
- 5 Q That was even better than what the range of motion
6 measured on June 25th 2003 was, two days before this motor
7 vehicle accident, correct?
- 8 A Correct.
- 9 Q Okay. And on July 9th, 2003 his therapist also
10 noted that his edema from the motor vehicle accident had
11 essentially resolved?
- 12 A According to what the --
- 13 Q According to that note?
- 14 A Yes.
- 15 Q Correct. And, again, on July 11th, 2003 his
16 therapist noted that his edema had resolved and Mr. Roos was
17 back to his pre motor vehicle level -- I'm sorry, pre motor
18 vehicle accident level?
- 19 A According to his record.
- 20 Q According to that note, correct. And the therapist
21 noted that his -- he had a fluid gait on July 11th, 2003?
- 22 A Correct.
- 23 Q Okay. Now his next treatment with you, Doctor, was
24 on August 4th, 2003. Do you have that note?
- 25 A Yes.

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- 1 have no serious personal damage from this incident?
- 2 A Correct.
- 3 Q He was able to ambulate independently?
- 4 A Correct.
- 5 Q And at that time his therapist noted that his knee
6 range of motion had not diminished from his previous
7 measurement?
- 8 A I just wanted to see where it's documented that way.
- 9 Q Sure. If you look at the 7/2/03 physical therapy
10 treatment notes, Jim Calibrini --
- 11 A Yes.
- 12 Q -- you'll see that there is a little bit of a break
13 in that treatment note, and if you look at Harold Roos
14 continued, do you see where I'm talking about there?
- 15 A Yes, gotcha.
- 16 Q Okay. You would agree that, at least according to
17 his therapist, his knee range of motion had not diminished per
18 his most recent documentation?
- 19 A That's what the document indicates.
- 20 Q Okay. And he returned for therapy on July 9th, is
21 that correct?
- 22 A I see the 7th.
- 23 Q Okay. And then he again returned on the 9th --
- 24 A Yes.
- 25 Q -- July 9th, 2003?

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- 1 Q Okay. And you noted that his range of motion was
2 zero to 130 degrees bilaterally?
- 3 A Correct.
- 4 Q Okay. You noted that he was making outstanding
5 progress?
- 6 A Correct.
- 7 Q And his knee was markedly better, I think, is what
8 you wrote down?
- 9 A Correct.
- 10 Q His presurgical pain was gone?
- 11 A He writes that his knee is markedly better and he
12 has excellent mobility and he writes that his presurgical pain
13 is gone, occasional soreness.
- 14 Q All right. And you also noted that his work status
15 was still limited due to his total knee replacement?
- 16 A Correct.
- 17 Q Okay. There was no mention of this motor vehicle
18 accident in your August 4th, 2003 note, was there?
- 19 A No.
- 20 Q Okay. He next came to see you, I believe, on
21 November 21st, 2003?
- 22 A Correct.
- 23 Q Okay. And at that time you took x-rays again that
24 showed satisfactory alignment of his implants?
- 25 A Correct.

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1 Q Okay. And according to your note both you and Mr.
2 Roos were pleased with his progress?
3 A Correct.
4 Q And you note there that his work and school status
5 was as tolerated?
6 A Correct.
7 Q And, again, there was no mention of this motor
8 vehicle accident, was there?
9 A Correct.
10 Q Okay. The next follow-up visit I have pertaining to
11 his knee, Doctor, was on February 7th, 2005, a year and a half
12 later?
13 A Correct.
14 Q Okay. At that time you noted he was making
15 excellent progress?
16 A Correct.
17 Q And he was able to -- his work or school status was
18 listed as tolerated?
19 A Correct.
20 Q And, again, no mention of this motor vehicle
21 accident, was there?
22 A No.
23 Q Okay. Now I understand that Mr. Roos came to this
24 office and treated with you along with some of your partners
25 for other areas of his body, but he didn't come back and treat

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1 Q And you also gave him an injection to his thumb?
2 A Yes.
3 Q Okay. And, again, no mention of the motor vehicle
4 accident on the April 21st, 2008 visit, was there?
5 A Correct.
6 Q Okay. I want to take a look at your report that you
7 authored, the first report that you authored to Attorney
8 Naddeo. Do you have a copy of it there?
9 A No.
10 Q I have a copy here for you (indicating).
11 A All right.
12 Q Okay. I had a question about -- do you happen to
13 recall the specific questions that were posed to you by
14 Attorney Naddeo when you were writing that letter? It looks
15 like you're answering questions that he had asked of you.
16 A I wouldn't recall them. I could probably guess the
17 questions by reading the answers.
18 Q Well, let's take a look at your answer to number 3.
19 You state in answer to number 3, it is unlikely that the
20 impairment will be permanent due to such. What's the
21 impairment that we're talking about?
22 A I don't know.
23 Q Okay. And do you know what "due to such" is
24 referring to?
25 A No, I don't.

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1 with you for his knees until just recently in April of 2008,
2 correct?
3 A Correct.
4 Q Okay. So from February 7th, 2005 until April of
5 2008, he didn't treat for any knee problems, he didn't treat
6 for any knee problems with you?
7 A I treated him for carpal tunnel syndrome during the
8 period of -- it looks like October 10th of '05, and then again
9 in November -- or, excuse me, December 2nd, '05, and then
10 again February 24th of '06. Obviously, at those visits even
11 though the visits were targeted at the carpal tunnel, I was
12 still talking about his knee, but that wasn't the reason for
13 his visits though.
14 Q Okay. All right. So we go from February 7th, 2005,
15 a visit for his knees until April of 2008, when he came to see
16 you for his knees specifically?
17 A Yeah. Because we talked about his knees in February
18 of '06.
19 Q Okay.
20 A But it looks like -- yeah, it wasn't then until
21 April 21st of '08 that we were really looking at his knees
22 again.
23 Q And at that time when he complained of bilateral
24 knee pain you sent him on to physical therapy?
25 A Yes, ma'am.

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1 Q Could you please read your answer to number 4?
2 A It says, question number 4, yes, it does. I think
3 this will clearly link into the time of physical therapy and
4 overall healing. He's going to be limited with regard to no
5 stooping, bending, kneeling, crawling or climbing activities.
6 He will not be able to carry weight in excess of probably 15
7 pounds.
8 Q Okay. Could the impairment that's referenced in
9 your answer to question number 3 be referencing those items
10 that you just recited?
11 A It could be. I just don't know because I'm not sure
12 what the question was.
13 Q Okay. So you don't know what impairment you were
14 talking about and you don't know what the permanency you're
15 referencing is pertaining to?
16 A Not without looking at the question that I was
17 answering.
18 Q And those are not in your file, are they?
19 A No. I don't have the original question list that
20 was forwarded to me.
21 Q Okay. Could I have the report back, please?
22 A (Witness complies).
23 Q Thank you. And, Dr. Ellis, just like everyone else,
24 you're being paid for your time today, and what is your fee
25 for depositions?

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1 A I'm not sure exactly. I know it's probably a couple
2 thousand dollars, I'm assuming.
3 MS. GILL: Thank you. That's all I have.
4 MR. NADDEO: A couple of questions.
5

6 REDIRECT EXAMINATION

7 BY MR. NADDEO:
8 Q Do you do IMEs?
9 A I have on a very rare occasion.
10 Q Can you tell us what an IME is?
11 A An independent medical evaluation?
12 Q Yes.
13 A Basically a review of a patient's case and physical
14 examination and rendering an opinion as to what you think.
15 Q Are you familiar with any physicians who do IMEs as
16 a -- pretty much as a profession, a professional witness?
17 A Yes.
18 Q Would that include Dr. Perry?
19 MS. GILL: Objection.
20 THE WITNESS: Yes.
21 BY MR. NADDEO:
22 Q Were you aware that Dr. Perry was determined in this
23 case by a Court --
24 MS. GILL: Objection.
25 MR. NADDEO: -- to be a professional witness?

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1 A Honestly, I don't know how much I get paid because I
2 think a deposition price changes whether it's a video
3 deposition or whatever. All I do know is that one of the
4 policies that we have is that -- 'cause I really don't like to
5 do depositions so we try to not do them unless it's absolutely
6 necessary.
7 Q Right.
8 A And so I know that if I'm in this room on a Monday
9 morning, the only way that that happened is that Betsy made
10 sure that somebody paid for me to be here.
11 Q Okay. Do you have any vested interest in the
12 outcome of this case because of the amount you've been paid?
13 A No.
14 Q Do you stand to gain anything from the outcome of
15 this case?
16 A No. I'm just trying to tell the truth of what is
17 happening.
18 Q Okay. Doctor, with respect to the office note of
19 July 2nd, 2003, could you go back to that for me, please.
20 A That's the one I don't have.
21 (Witness provided with a copy.)
22 BY MR. NADDEO:
23 Q Now, I would like to cover some of the parts that
24 Defense Counsel overlooked, okay, specifically the x-ray exam.
25 Would you read the result of the x-ray exam for me?

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1 MS. GILL: Objection. This is beyond the scope of --
2 MR. NADDEO: No, but you just asked about his money,
3 so we're going to clear it up.
4 BY MR. NADDEO:
5 Q Are there doctors who do IMEs basically for a living
6 instead of treating patients?
7 A Correct.
8 Q Would that include Dr. Perry?
9 A Yes, it would.
10 Q Are you an IME physician or a treating physician?
11 A No, I'm a treating physician.
12 Q And you've treated this man since 1996?
13 A Correct.
14 Q Can you think -- is there anybody in the world who
15 would know more about his knees than you?
16 A No.
17 Q Would it be possible for anyone else in the world to
18 know more about his knees than you?
19 A No.
20 Q Okay. Now you were asked whether you were being
21 paid for this deposition, correct?
22 A Correct.
23 Q And you are?
24 A I'm assuming I am.
25 Q It's not the part that you handle?

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1 A X-rays today revealed evidence of a large anterior
2 contusion of the bilateral knees.
3 Q Could you stop there. What does that mean?
4 A On the actual x-ray the soft tissue shadow revealed
5 there to be soft tissue swelling involving the anterior knees.
6 Q Okay. Now it goes on to say there's no loosening --
7 no, I'm sorry, finish the report, finish your review of the
8 x-ray.
9 A It goes on to say there's no evidence of loosening
10 or damage to his knee prostheses of the bilateral knees, but
11 he has large ecchymotic contusions of his bilateral knees.
12 Q Again, what does "ecchymotic contusions of his
13 bilateral knees" mean?
14 A That's something that's basically -- the ecchymotic
15 contusion means that they're bloody, there's basically a large
16 area of bruising. There's blood under his skin where the blow
17 had occurred.
18 Q Okay. Now at that section of your office notes
19 dealing with plan, would you read that for me, please.
20 A It says, we had discussed the situation extensively
21 today. I'm --
22 Q Again, stop there. With whom did you discuss that
23 situation?
24 A The patient.
25 Q Okay. Go ahead.

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1 A We discussed treatment options. We have made
2 arrangements for a trial of continued physical therapy and
3 rehabilitation. I do believe this is going to set him back
4 with regard to his overall rehabilitation as he, obviously,
5 had a significant setback especially with regard to his left
6 knee, the prepatellar area, prepatellar effusion and swelling.
7 Q Okay. Again, could you stop and tell me what you
8 mean by "prepatellar area?"
9 A What it is is the area where he had this ecchymotic
10 swelling in his left knee was worse. He basically had fluid
11 in his prepatellar bursal area, basically a collection of
12 blood underneath his skin.
13 Q And to finish your plan.
14 A We were continuing him with physical therapy and
15 fall back to his regularly scheduled appointment on August
16 3rd.
17 Q Okay. Doctor, during your direct testimony you
18 basically testified that this accident set this gentleman
19 back, correct?
20 A Correct.
21 Q That was your opinion back in July of 2003?
22 A Correct.
23 Q Does that remain your opinion today?
24 A Yes.
25 Q And have you actually seen him throughout this

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1 replacement and to the addition of the accident.
2 MR. NADDEO: I have no further questions.
3 MS. GILL: Before we go off the record I'm just
4 going to request a copy of your letter to him.
5 MR. NADDEO: Okay. That's it. Thank you.
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DEPOSITION CONCLUDED AT 8:00 A.M.

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1 period of time since July of 2003?
2 A Yes..
3 Q And based on your observations of this gentleman
4 from July of 2003 to the present, is the prognosis that you
5 made in July of 2003 proven to be accurate?
6 A Yes.
7 Q Okay. Now you have some questions about the report
8 that you authored at my request?
9 A Yes.
10 Q Okay. And in response to question 4 you do set
11 certain limitations on this patient?
12 A Correct.
13 Q Okay. And were those limitations present as of
14 December 30, 2005, when you authored this report?
15 A Yes.
16 Q And would you please indicate to the jury what
17 limitations you placed on Mr. Roos at that point in time?
18 A I stated he is clearly going to be limited with
19 regard to no stooping, bending, kneeling, crawling or climbing
20 activities, and he would not be able to carry weight in excess
21 of probably 15 pounds.
22 Q And do you attribute those limitations to the
23 injuries that he received in the automobile accident of June
24 27th, 2003?
25 A I attribute them to the fact he had the knee

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1 COMMONWEALTH OF PENNSYLVANIA :
2 : ss: COUNTY OF CAMBRIA :
3

4 I, MARYANN CORNELIUS, Freelance Court Reporter and Notary
5 Public, Commonwealth of Pennsylvania,

6 DO HEREBY CERTIFY, that the foregoing deposition was
7 taken before me at the time and place stated herein; that I
8 administered unto the deponent his oath to testify to the
9 truth, the whole truth, and nothing but the truth; that he was
10 there and then orally examined and testified as herein set
11 forth; that I reported said examination and testimony
12 stenographically, and that this transcript of deposition
13 constitutes a true and correct transcription of the shorthand
14 report of said deposition.

15 I FURTHER CERTIFY that I am neither related to nor
16 employed by any counsel or party to the cause pending, nor
17 interested in the event thereof.

18 IN WITNESS WHEREOF, I have hereunto affixed my hand and
19 official seal this 8th day of August, 2008, at Ebensburg,
20 Cambria County, Pennsylvania.
21
22
23
24
25

MARYANN CORNELIUS
Notary Public
Commonwealth of Pennsylvania
My Commission Expires 4/25/2010

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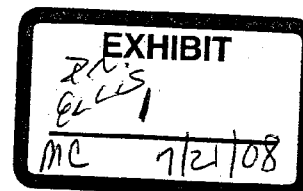
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Post-operative arthroscopic pain study
Initiation date: February, 2004



CURRICULUM VITAE

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BUP3011

Sub-investigator.

Chronic, moderate to severe OA pain of the hip and knee.

Trial start date: January, 2004

**RESEARCH EXPERIENCE
(CONTINUED)**

OL 09-01-03

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HUPS L-8229

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CURRICULUM VITAE

Thomas J. Ellis, D.O.

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PUBLICATIONS AND SCIENTIFIC PAPERS:

Ellis, T.J., Mogil, C., A Review of Neuropathic Arthropathy with Case Report. Submitted as yearly paper and for publication, 1993.

Ellis, T.J., Weiland, R.L., Pseudaneurysm after application of Tibial External Fixator: Case Report and review of Literature. Submitted as yearly paper and for publication, 1992.

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Ellis, T. J., Clinical Synopsis "Fingertip Injuries", submitted as yearly paper, 1990.

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- Lindback Scholarship for Academic Achievement-1986

REFERENCES:

Available upon request

**ASSESSMENT OF
EMPLOYMENT POTENTIAL:**

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October 5, 2007

James A. Naddeo, Esq.
Attorney at Law
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P.O. Box 552
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RE: Name: Harold J. Roos, Jr.
Date of Injury: 6/27/03
Our File: 15521

HAROLD J. ROOS, JR.: ASSESSMENT OF EMPLOYMENT POTENTIAL

Harold J. Roos, Jr., who is 55.86 years of age (DOB: 11/26/51), was interviewed on 6/11/07 in the Clearfield, PA, office of his attorney, James A. Naddeo, Esq. The purpose of my evaluation of Mr. Roos was to determine what effect, if any, the injuries he sustained on 6/27/03 have had on his potential for engaging in work-related activities, providing him with financial remuneration and wage earning capacity.

Mr. Roos, a 5' 8", 275-pound (representing a post-injury gain of 75 pounds), right-hand dominant male, was pleasant and cooperative during our 2-hour meeting, answering all questions posed to him by attempting to provide well-adorned responses in an apparently open and straightforward manner. After initially meeting Mr. Roos he was advised by this evaluator that this assessment was being carried out at his lawyer's request and would be conducted for court purposes only. Mr. Roos was also informed that under the circumstances of the referral, he would not be a recipient of this office's vocational rehabilitation services, and no counselor-client relationship would be intended or implied by the evaluation process. Finally, in the way of introduction, he was told that the traditional confidentiality privileges were being waived, as any of the information gathered or reviewed might be made discoverable in the context of his lawsuit. Mr. Roos verbally acknowledged his understanding of these preliminaries and agreed to continue.

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DOCUMENTS AND RECORDS REVIEWED:

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- Boilermakers National Health and Welfare Plan, Effective January, 2001.
- Social Security Earnings Statement for Harold J. Roos, Jr., 7/1/03.
- "Notice of Decision – Fully Favorable" from the Social Security Administration, 11/26/04.
- Medical report of John F. Perry, M.D., 7/5/06.
- Medical report of G. M. Bailey, D.O., 12/7/05.
- Medical report of Thomas J. Ellis, D.O., 12/30/05.
- U.S. Individual Income Tax Returns for Harold J. Roos, Jr., 1998-2006.

MEDICAL INFORMATION:

According to information provided, on 6/27/03, Mr. Roos sustained bilateral knee, shoulder, and lower back injuries as the result of a motor vehicle accident (MVA). The history of Mr. Roos' injuries and treatment were reviewed as provided in the preparation of this report.

At the time of the 6/27/03 accident Mr. Roos was postoperative from 5/7/03 knee surgery (bilateral) and was receiving a regimen of physical therapy, having last worked in April, 2003 prior to undergoing his 5/7/03 surgery.

Mr. Roos denied having any prior industrial or work related injuries although he had been involved in labor intensive work activities throughout his work history.

Subsequent to the 6/27/03 MVA, Mr. Roos described an 11/06 hospitalization for cardiac issues and he has been diagnosed with sleep apnea which requires the use of a continuous positive airway pressure (CPAP) machine while he is sleeping.

Mr. Roos presently remains under the care of Thomas J. Ellis, D.O., State College, PA, orthopedist, who he sees on an as needed basis. He also treats with Ralph A. Cardamone, M.D., Clearfield, PA, cardiologist, for his heart issues, and Bruno J. Romeo, M.D., Clearfield, PA, for his sleep apnea.

Mr. Roos listed his present medications to include lasix, coumadin, a blood pressure medication, a cholesterol medication, and two medications to assist in keeping his heart in proper rhythm. He manages his pain with over-the-counter pain medication such as Tylenol as needed to alleviate/reduce his chronic and ongoing pain when these pain levels are particularly elevated or exacerbated, usually requiring at least six caplets per day, more depending on if he has been more active on a particular day.

When questioned regarding any residual pain he experiences as a result of his 6/27/03 accident, Mr. Roos stated he is never completely pain free. He first described constant pain of a "dull, aching nature" in his lower back and shoulder (right and left) area and both knees which he stated is present "24/7." His lower back pain usually radiates or extends down into his buttocks and groin and into his legs. He will occasionally get a "pinching pain" which will extend into his right buttock and right leg. He stated that with virtually any type of activity or movement he will develop sharp, stabbing "burning" pains in the lower back area which "make it feel like there is a cattle prod in there." His knee pain is exacerbated by

standing and walking, and he has trouble getting down on his knees without getting excruciating pain in his knees. Simply put, Mr. Roos stated that "the more I do, the more I will hurt," and that any bending or twisting involving his upper torso will be factors which will drastically increase his pain levels. With dismay Mr. Roos stated that even if he is sitting watching television that he will have pain which is "like a toothache" in both of his shoulders and that "it feels like someone is pressing hard down on both of my shoulders." Outward or overhead reaching will cause him to develop sharp, stabbing pains in his shoulders, worse with his right shoulder.

Mr. Roos stated his post-injury levels of pain have affected his sleep patterns. He stated he has a difficult time getting to sleep at night, and once asleep, he will awake throughout the night with pain every 2 to 2 ½ hours. He stated that because he is "up and down throughout the night" that often when his pain wakes him during the night he is unable to fall back to sleep and he will have to get up and watch television or read until he can fall back asleep once again. He indicated that "I have not had a full night of sleep since this accident occurred."

Mr. Roos stated that since his accident, he has become weaker in general, and he has noticed a marked decrease in his overall strength, stamina, and endurance. He indicated that "I get upset with myself because I can't shake this pain and do what I want to do with regard to my work and my hobbies that I used to enjoy so much."

When walking when shopping, Mr. Roos finds that he has to frequently sit down, or in a best case scenario he will use a cart as a walker to lean on and which takes pressure off his back and knees and allows for him to engage in this mundane activity of daily living (ADL). Mr. Roos stated that activities such as bending at the knees, twisting, and kneeling are difficult and painful for him. For this reason, he must be much more cautious and deliberate with regard to the movement of his body, particularly when walking over uneven surfaces, loose impediments, icy surfaces, etc. Mr. Roos is apprehensive of falling and further injuring himself, as his balance has been seriously compromised by his injuries that were sustained on 6/27/03. Mr. Roos stated that he will always use a handrail when one is available when climbing or descending stairs or steps since being injured, as ascending or descending stairs or steps is very difficult for him post-accident.

With regard to his perception of his physical limitations, Mr. Roos stated that lifting more than a bag of garbage or groceries will increase his pain dramatically, and that therefore he tries to restrict all of his lifting so as to "not make things any worse than they are already." He indicated that he is able to drive comfortably for 30-45 minutes at a time before developing cramping and stiffness which require that he get out and move about for a few minutes just to "stretch things out" before being able to continue driving. He stated that he is able to physically tolerate riding in a car (as a passenger) "much better" than when he must drive himself because he is able to "recline" the seat and move about to his tolerances to a much greater extent when he is not driving himself.

With regard to household chores and yard work, Mr. Roos stated that prior to his 6/27/03 accident he was able to do everything one thinks of as being a household chore without physical limitations or restrictions. Mr. Roos is now limited around his home in terms of what he is able to do, adding that strenuous projects have to be avoided, but that other less labor-intensive household chores can be accomplished by him, stating, "I'm not totally helpless around the home", but that each and every chore performed by him now takes him longer to accomplish than before he was injured. He will utilize a riding mower to mow his grass, taking frequent breaks when riding, as well as running the vacuum cleaner when "it is absolutely needed." He mentioned that prior to the accident he heated his home with a coal furnace, but because he no longer can carry the coal to load the furnace, or remove the ashes resultant from heating with coal, that he has had to change over to a more expensive method of heating (oil) his home. Also, he was able to complete various handyman and home improvement projects, including the performance of routine oil and filter changes on his vehicle. He stated that his son who lives with him and his other children who all live nearby regularly perform household chores that previously he performed by himself, as well as other

friends who provide assistance to him on a frequent basis. Mr. Roos stated his children have "really picked up the slack" in regard to the majority of chores and work around the home that he had previously performed himself. Mr. Roos stated that since his accident he performs a significantly fewer number of hours of household service or activities during the course of a seven day week.

Prior to his accident, Mr. Roos stated he had enjoyed various hobbies and interests which had included hunting and fishing, including from the bank and stream as well from boats. Because he cannot walk on uneven surfaces he no longer can hunt, and that walking in a stream to fish is not possible because of the slippery surfaces associated with rocks/stones in the water. Mr. Roos stated that if someone takes him fishing in their boat he will occasionally still fish at Raystown Lake, but "I can't take it for as long as before the accident because of sitting too long in the boat is not good for me."

Overall, Mr. Roos' current health circumstances, residual physical limitations, pain and adverse symptomatology resultant from the injuries he sustained on 6/27/03 represent significantly compromised levels of functioning for him. As such, Mr. Roos is to be commended for his diligent efforts to rehabilitate himself to the level he has attained and maintained subsequent to the aforementioned accident.

FAMILY BACKGROUND:

Mr. Roos was born in Philipsburg, PA. He has lived at his present location for his entire life except for the thirteen years that he was married.

Mr. Roos has been married one time, with this marriage ending in divorce in 1984. Mr. Roos has five children, three daughters, Nicole, age 37, Rebecca, age 36, Heather, age 33, and two sons, Jacob, age 27, and Joshua, age 26. Jacob resides with his father, and the other four children all live independently of Mr. Roos, but proximate enough to assist him with routine chores and activities of daily living as are required by him post-injury.

Mr. Roos stated he has never been convicted of a felony, is bondable, and possesses a valid Commonwealth of Pennsylvania driver's license.

EDUCATIONAL BACKGROUND:

Mr. Roos is a high school graduate, having graduated from West Branch Area Junior Senior High School, Morrisdale, PA in 6/71, after having studied in the industrial arts curriculum. Mr. Roos stated that he was not a good student and that "I was fortunate to make it through high school and graduate, as I just got through," mentioning that he should have graduated in 1969 but that he had been "held back two years as I flunked the 3rd and 5th grades." Following his graduation from high school in the winter of 1971-1972 he attended the DuBois Technical Training School, DuBois, PA, completing successfully a six-month certificate course in welding (mig and tig) and blue print reading. Mr. Roos has had no additional specific vocational or academic training since that time.

According to the Federal Register, Mr. Roos' educational attainment level is defined as "High school education and above," and is stated as follows:

"High school education and above means abilities in reasoning, arithmetic and language skills acquired through formal school at a 12th grade level or above. We generally consider that someone with these educational abilities can do semi-skilled through skilled work."

Vocational testing of Mr. Roos was deferred based on his identifiable skills and worker traits from his educational and vocational backgrounds.

VOCATIONAL HISTORY:

Beginning in 2/73 Mr. Roos has been employed through the auspices of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (IBB) Local 13. As a boilermaker Mr. Roos has performed a variety of welding and fitting work typically at nuclear power plants, refineries, tanks and bag houses, incinerator plants, and purifying air plants, as assigned by the union hall. His hourly rate at the time he last worked in April 2003 was \$31.32 and the present hourly rate for a union journeyman boilermaker is \$35.26. A full complement of fringe benefits is provided as a condition of employment while working as union boilermaker (Boilermakers National Health and Welfare Plan), including health and life insurance, vision and dental coverage, pension and annuity. Mr. Roos stated that his father had been a boilermaker and one of his sons has also followed his vocational path and is a boilermaker. He had fully intended to continue with his career as a boilermaker, as he had thirty years of service vested at the time he had his knees operated on in May, 2003. His expected "down time" for recovery and rehabilitation following this surgery was expected to be 3-4 months. It was during this rehabilitation phase that he was severely injured on 6/27/03, preventing his eventual return to his long standing job working as a union boilermaker.

Early in his vocational career Mr. Roos was employed by B. Mano, Ridgeway, PA as a full-time welder (non union shop) for 1 ½ years prior to being accepted into the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (IBB) Local 13. As a welder for this company he was involved with ornamental ironwork and fabrication.

Mr. Roos' first job after high school was with the General Electric Company, Erie, PA, for whom he worked full-time for 3-4 months as a welder involved with the manufacture of railroad locomotives before being laid-off.

VOCATIONAL PROFILE:

The Dictionary of Occupational Titles (DOT), the Complete Guide for Occupational Exploration (GOE), the Transitional Classification of Jobs (COJ), the Occupational Outlook Handbook (OOH), and the Federal Register have been researched and applied in identifying Mr. Roos' vocational skills and in discussing his vocational profile.

Essentially, in review of the specific vocational activities that comprise Mr. Roos' vocational history, he has performed work that would be categorized as semi-skilled to skilled in nature. According to the Federal Register, semi-skilled and skilled work are defined as follows:

"Semi-skilled work is work which needs some skills but does not require doing the more complex work duties. Semi-skilled jobs may require alertness and close attention to watching machine processes; or inspecting, testing or otherwise looking for irregularities; or tending or guarding equipment, property, materials or persons against loss, damage or injury; or other types of activities which are similarly less complex than skilled work. A job may be classified as semi-skilled where coordination and dexterity are necessary, as when hands or feet must be moved quickly to do repetitive tasks."

"Skilled work requires qualifications in which a person uses judgment to determine the machine and manual operations to be performed in order to obtain the proper form, quality or quantity of material to be produced. Skilled work may require laying out work, estimating quality,

determining the suitability and needed quantities of materials, making precise measurements, reading blueprints or other specifications, or making necessary computations or mechanical adjustments to control or regulate the work. Other skilled jobs may require dealing with people, facts, or figures or abstract ideas at a high level of complexity."

Generally speaking, the physical (exertional) demands of the various positions Mr. Roos has performed previously range from light to heavy. According to the Dictionary of Occupational Titles, Fourth Edition, Revised, 1991, published by the U.S. Department of Labor, Employment and Training Administration, light, medium, and heavy work are defined as follows:

"Light Work. Exerting up to 20 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time), and/or up to 10 pounds of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time), and/or a negligible amount of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time), and/or a negligible amount of force constantly (Constantly: activity or condition that exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job should be rated Light Work: (1) when it requires walking or standing to a significant degree; or (2) when it requires sitting most of the time but entails pushing and/or pulling of arm or leg controls; and/or (3) when the job requires working at a production rate pace entailing the constant pushing and/or pulling of materials even though the weight of those materials is negligible. NOTE: The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible."

"Medium Work. Exerting 20 to 50 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time), and/or 10 to 25 pounds of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time), and/or greater than negligible up to 10 pounds of force constantly (Constantly: activity or condition that exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Light Work."

"Heavy Work. Exerting 50 to 100 pounds of force occasionally (Occasionally: activity or condition exists up to 1/3 of the time), and/or 25 to 50 pounds of force frequently (Frequently: activity or condition exists from 1/3 to 2/3 of the time), and/or 10 to 20 pounds of force constantly (Constantly: activity or condition that exists 2/3 or more of the time) to move objects. Physical demand requirements are in excess of those for Medium Work."

From a work classification standpoint, Mr. Roos' entire vocational experiences (related to developed skills) would be categorized by the Area and Work Group Arrangement classification of **Craft Technology**.

The injuries Mr. Roos sustained on 6/27/03 have severely compromised his abilities, skills and capacities to perform his past jobs. These vocational handicaps are the physical, behavioral, and psychological sequelae which have resulted from the injuries he sustained on 6/27/03. Mr. Roos' injuries have, in virtually all instances, eliminated his capacity to fully function effectively and successfully in his work-related skill groupings, and as such, have resulted in a past wage loss and will result in shortened economic horizons and a significant future loss of wage earning capacity for him.

WORKLIFE EXPECTANCY:

Various methodologies are accepted by forensic practitioners (usually vocational experts and economists) to obtain an estimate of worklife expectancy for an individual. Institutional measures (i.e., retirement

age) are also used by forensic practitioners to determine normal or routine end-points of work for individuals such as Mr. Roos. Both statistical worklife expectancy and normal retirement age (age 66 for Mr. Roos) are acceptable to consider/present in a forensic matter such as this.

Mr. Roos was 51.58 years of age as of the 6/27/03 accident. A 51.58-year-old male who is active (vocationally) at the time of incident/accident/occurrence, with a high school diploma (or GED), has a worklife expectancy of an additional 11.45 years of work, using the 2001 revised tables of Gary R. Skoog and James E. Cieka (Journal of Legal Economics, Volume 11, Number 1, Spring/Summer 2001)¹. The incident/accident/occurrence date should always be used in forensic matters such as this to determine expectancies, whether the expectancy is worklife, life or active life (when quantifying or valuing household services). Using a subsequent date, which is always fluid, tends to extend the statistical expectancy of the individual unfairly and would misrepresent, in this instance, the actual concept of worklife expectancy.

According to Labor Force and Other Characteristics of Persons with a Work Disability: 1981 to 1988, U.S. Dept. of Commerce, Bureau of the Census, July 1989, only 29.1% of males in Mr. Roos' age category with a work disability are employed full-time. Conversely, 90.4% of males who are Mr. Roos' age and possess no work disability are employed full-time. Thus, statistically, an injured individual has a dramatically reduced opportunity to engage in full-time work.

A government study (Americans with Disabilities: 1997) provides documentation regarding the comparative earnings of workers by work disability status. In 1997, individuals who were Mr. Roos' age (35 to 54 years) and able to work with a disability earned **\$10,827 less** for the year than individuals his age who were employed with no work disability. These statistics depict the negative employability and/or earnings profile for individuals, like Mr. Roos, who have sustained a significant work disability as a result of being injured.

LIFE EXPECTANCY:

According to the United States Life Tables, 2003, National Vital Statistics Reports, Volume 54, Number 14, U.S. Dept. of Health and Human Services, April 19, 2006, Mr. Roos will have a statistical life expectancy from 51.58 years (his age at the time of the 6/27/03 accident) of an additional 27.9 years, as he can be expected to live until the age of 79.48 years.

STATE/COUNTY LABOR FORCE DATA:

Clearfield County (where Mr. Roos resides) has an unemployment rate of 4.9% as of July, 2007, which is one of the highest rates of unemployment in Pennsylvania and places it at #38 (tied with Clarion, Lawrence, Luzerne, McKean, and Mifflin counties) out of 67 counties. On the other hand, statewide in Pennsylvania the unemployment rate is 4.5% as of July, 2007, which is down from 5.0% one year earlier (July, 2006).²

¹Gary R. Skoog & James E. Cieka, "A Markov (Increment-Decrement) Mode of Labor Force Activity: Extended Tables of Central Tendency, Variation and Probability Intervals", Journal of Legal Economics, Vol. 11, No. 1, Spring/Summer 2001, Table 3. This paper updates with recent data the older worklife expectancy estimates found in U.S. Dept. of Labor, Bureau of Labor Statistics, "Worklife Estimates: Effects of Race and Education", Bulletin 2254, February 1986.

² <http://www.clep.state.pa.us/datapages/unemprates.asp>

CASE DISCUSSION:

Prior to addressing specific vocational and economic issues in Mr. Roos' case, the concept of wage earning capacity as it is routinely used in the field of vocational rehabilitation will be defined. Wage earning capacity or potential is defined as the level of income which an individual reasonably may be expected to receive from work, given that individual's age, level of educational attainment, particular skills and talents, actual earnings and work history, intentions, and the supply and demand conditions in the labor market relative to the individual's realistic employment choices. The realization of wage earning capacity is a function of both economic and non-economic factors.

Based on a review of the provided information regarding Mr. Roos and the result of my interview with and evaluation of him, it is my opinion that Mr. Roos meets the definition of possessing an occupational disability. The U.S. Department of Commerce defines occupational disability as existing when a person is limited in terms of the amount of or kind of work he or she can do on a job because of a physical or mental impairment.

Any individual's power to earn money (wage earning capacity) is a function of the capacity to perform work. The capacity to perform work is predicated on a series of measurable factors identified by the U.S. Department of Labor as worker characteristics. The traits and characteristics associated with the performance of specific occupations include both physical and intellectual attributes.

Physical attributes are defined as the "physical demands" of a particular occupation, and intellectual attributes are referred to as aptitudes. Aptitude refers to an individual's potential or capacity to learn. One measurable and predictable aptitude is general learning ability, defined as the ability to "catch on" or understand instructions or underlying principles. It is the ability to reason and make judgments. Aptitudes are closely related to doing well in school.

In assessing Mr. Roos' employability and wage earning capacity following the accident of 6/27/03, I would first note that since 1981, as part of its Current Population Survey (CPS), the Department of Commerce has continuously collected statistics regarding the earnings and the labor force status of persons with a work disability (US Census Bureau, 1983, 1989; <http://www.census.gov/hhes/www/disable/disabcps.html>). An examination of the data reveals two phenomena that are relevant to assessing any individual's wage earning capacity before and after permanent injury such as was sustained by Mr. Roos on 6/27/03. First, persons with a work disability, even when they work full-time, year-round, tend to earn less than their counterparts without a work disability. This is true at all the educational levels (<12 years, 12 years, 13-15 years, 16+) for both men and women (<http://www.census.gov/hhes/www/disable/disabcps.html>, Table 3). For example, based on the March 2003 CPS, 25 to 64-year-old males with a high school education working full-time earned an average of \$32,484 in 2002 if they had a work disability, but \$39,531 if they did not. Second, persons with a work disability are less likely to be employed than persons without a work disability and are more likely to work part-time (same web site, Table 2). For example, these same men had an average employment rate of 26.7% if they had a work disability, but 90.8% if they did not.

Surveys other than the CPS also find that people with a disability are less likely to be in the labor force and working than people without a disability. *The Chartbook on Work and Disability in the United States, 1998* (Stoddard, Jans, Ripple, & Kraus, 1998) summarizes some of these findings, not only from the CPS, but from the Survey of Income and Program Participation and the National Health Interview Survey as well. Likewise, the *2000 N.O.D./Harris Survey of Americans with Disabilities* (Harris Interactive, 2000) finds reduced rates of employment and income for persons with a disability. Since employment statistics constitute the major building blocks of a worklife expectancy estimate, one can conclude that persons like Mr. Roos who possess a work disability are likely to experience reduced worklife expectancy.

Certainly, it is acknowledged and apparent that up until the present time Mr. Roos' stream of income has been reduced by his residual physical deficits that have been well chronicled by each of the treating physicians who have had the opportunity to treat and examine him during the course of the more than four years since he was injured on 6/27/03. Mr. Roos had undergone bilateral knee surgery on 5/7/03 and was involved in a course of physical therapy so as to allow for his eventual return to work as a boilermaker at the time of the 6/27/03 accident. As such, Mr. Roos would be considered to be a classic example of an "eggshell plaintiff" given that he was injured on 6/27/03 while recovering from his 5/7/03 surgery to both of his knees. Unfortunately, the 6/27/03 injuries which were superimposed on his existing condition which now involve his knees, lower back and both shoulders have prevented any subsequent vocational participation for Mr. Roos in his long standing (since February, 1973) employment as a union boilermaker. However, in recognition of the paucity of transferable vocational skills that Mr. Roos possesses, as he has never performed a job which has required "paper and pencil" vocational skills, as all of the jobs which he has worked in previously have been labor intensive, Mr. Roos has been determined to be physically unfit for *any* type of meaningful and sustainable work activities *anywhere* within the United States by the Social Security Administration (favorable disability determination which qualifies Mr. Roos to receive disability benefits). I concur with the decision of the Social Security Administration and believe that it would be highly disingenuous to attempt to portray this individual as possessing any residual wage earning capacity at the present time and that these adverse health circumstances which have been the result of his having been injured on 6/27/03 will prevent him from performing substantive work activities for the remainder of his working years.

Mr. Roos was unsure as to how long he would have continued to work as a boilermaker in the absence of being injured on 6/27/03. In his deposition of 9/23/05 he indicated that he did not plan on early retirement, but upon questioning he stated that he planned on retiring upon reaching the age of 55. Whether or not Mr. Roos was understanding of the question and his answer at that time is not as important as recognizing that his choice of working or not working as his personal circumstances allowed, as well as in consideration of his health circumstances, was taken away from him as a result of his involvement in the 6/27/03 accident. When I questioned Mr. Roos he stated that he may have continued to work past the age of 55 based on the outcome he realized from his 5/7/03 surgery to his knees. Obviously, no one can know what that eventual outcome for Mr. Roos would have been because the insult of 6/27/03 occurred. What is known is that his vocational potentials were shortened and his economic choices were eliminated as a result of being injured in the accident which is the basis of this forensic matter. There is no equivocation or doubt with regard to the finality of Mr. Roos' vocational outcome which has prevented him from ever again working following his having been injured on 6/27/03.

What is a vocational certainty for Mr. Roos is that his loss of capability to work results in loss of capability to earn a living. With this tenet in mind, it is necessary to consider the definition of wage earning capacity which was defined earlier in this assessment report. Every individual, given his or her innate mental and physical abilities, as well as their educational and work backgrounds, or absence thereof, has an inherent/or acquired ability to earn wages. This is the specific "economic horizon" of any given individual. When a loss of physical and/or mental capability following injury has/have an adverse affect on employability, and when there is an associated permanence of injury, the required criteria that establish a foreshortening of economic horizons have been met. The capacity to earn is a concept that is quite distinct and different from the concept of income realization. That is, regardless of how Mr. Roos' past income level is defined/determined, that, by definition, does not mean that his level of income in the future would not be more than was previously demonstrated by the individual, had he/she not been injured or disabled. One's wage earning capacity is often greater than the realized income they have demonstrated before they were injured or disabled. It is my opinion that the individual I interviewed and evaluated on 6/11/07 has sustained a compromise to their economic horizons, and that Mr. Roos has sustained a significant diminution of the realistic or actual income that he would have realized had he not been injured in the accident of 6/27/03.

Pre-injury, I believe a reasonable measure or barometer of earnings potential for Mr. Roos' was his most recent annual stream of income (2002) while working as a journeyman union boilermaker, \$61,858, and is typical of the income level that he would have continued to realize/demonstrate upon his recovery from the 5/7/03 knee surgery which occurred prior to his involvement in the 6/27/03 accident. The current hourly rate for a journeyman union boilermaker is \$35.26 per hour. Because union assignments are not available at all times upon the completion of one's existing or current work it cannot be assumed that full-time work is available for 40 hours per week, 52 weeks per year as union boilermaker. On the other hand, it is reasonable to assume that the hourly rate which was the basis of Mr. Roos' income would have continued to increase in the intervening years, and as such, it is necessary to apply cost-of-living adjustments (COLAs) to his 2002 earnings in order to bring them current (2007). For the past six years the Consumer Price Index (CPI) has provided an average cost-of-living adjustment (COLA) of 2.7% which will be applied to Mr. Roos' 2002 income of \$61,858 to bring it current, or to \$70,672.13 per year, when determining his future economic losses. The specific COLA adjustments have been 2.6% for 2002, 1.4% for 2003, 2.1% for 2004, 2.7% for 2005, 4.1% for 2006, and 3.3% for 2007.

Acknowledging any modicum of physical capabilities for the performance of substantive work activities for Mr. Roos does not translate into a post-injury wage earning capacity for Mr. Roos, given his age (55.86 at the present time) and lack of transferable vocational skills, and most importantly the labor market conditions that are applicable to this individual. I believe it would be intellectually disingenuous to attempt to cite job titles from an academic perspective only (methodology normally used to generate an alternate income profile for a disabled individual), as I believe that such an approach would not fall within the purview of credible and believable if Mr. Roos would be allowed to "apply" for any actual job openings, as compared to identifying hypothetical jobs given the actual history of this case for the past more than four years.

In Mr. Roos' case the concepts of job availability, job placeability and job employability must be carefully differentiated. I acknowledge that it may be possible to identify jobs (note preceding paragraph) as "available" to Mr. Roos; however, it is most unlikely Mr. Roos would be placeable (i.e., would be hired) in the vast majority of the jobs so identified, particularly after having had worked in a singular job setting as a boilermaker since 1973. That is, the identification of a job as "available" is by no means the equivalent of being hired (or even the likelihood of being hired) for that job. For Mr. Roos, it is most unlikely he would be hired for virtually any "available" jobs, given his current, post-injury physical circumstances. That is, even if Mr. Roos were somehow able to "leap the hurdle" of placeability, it is even less likely he would be able, at that point, to maintain that employment, given his post-injury limitations and restrictions which have been chronicled by his treating physicians, as I have discounted the provided opinion of the well-known examining physician, John F. Perry, M.D. (refer to my testimony given in this matter on 7/9/07 in Clearfield County regarding "motion to compel").

By way of illustrating one obstacle to Mr. Roos' ability to be "placed" in a position of gainful employment, and when quantifying Mr. Roos' economic losses as he is required to seek alternate employment in the future, it must be understood that he undoubtedly will encounter *employer resistance*, or "negative employer bias," a familiar concept in the field of vocational rehabilitation. Employer resistance refers to the vocational reality that employers routinely will not consider an individual (such as Mr. Roos) for job openings due to his/her inability to perform the job as successfully as an individual who does not possess significant physical and/or neuropsychological limitations and/or restrictions.

There is no question that employers prefer to hire and attempt to maintain the employment of individuals who do not have the permanent deficits that a person such as Mr. Roos possesses. The occupationally disabled individual is at a disadvantage in the competitive job market when compared with the individual who can demonstrate that he/she is in good health. A permanent condition, such as Mr. Roos possesses, results in the loss of opportunities for promotion, and a loss of opportunities to enter the work force (restricted access to the labor market).

The Americans with Disabilities Act (ADA) was enacted specifically to alleviate the difficulties in obtaining employment experienced by persons with a disability. Unfortunately, preliminary research pertaining to post-ADA employment patterns for persons with a disability indicate that employment problems actually have worsened since the passage of the Act.

DeLeire (2000) used the Survey of Income and Program Participation (SIPP) and found that people with a disability work less and earn less than people with no disability. Also in the few years following passage of the ADA, men with disability were less likely to be employed relative to men with no disability than they had been the few years prior to passage of the ADA. In the few years prior to the ADA, men with disability had employment rates that were 63% as high as the rate for men without disability. In the few years after the ADA, this rate dropped to 53%.³

In my opinion, many employers now are fearful of hiring a person, such as Mr. Roos, who possesses a physical disability, because of questions and uncertainties associated with the "reasonable accommodation" and "essential job functions," as defined in the ADA. Although the intent of the Act was commendable, it has had little if any positive effect in helping the disabled individual return to alternate jobs after sustaining an occupational disability.

The economic and vocational consequences for Mr. Roos as a result of him being injured on 6/27/03 are apparent in his post-injury ability to function in the workplace. In addition, household services have a specific economic value. Post-injury, Mr. Roos is unable to perform household services (which include homemaking, home maintenance, grounds or lawn maintenance and light home repairs) at pre-injury levels. Mr. Roos has lost the ability to perform many of these activities and should be compensated for the services/activities he is no longer able to perform for himself and/or his family. In cases such as Mr. Roos', economic value should be attributed to household services, as family members or friends often are required or called upon to perform activities that previously were performed by the disabled individual. These services have a specific economic value even if "outside help" is not retained (paid) to perform them.

It is noted that the literature indicates that retired persons provide a greater number of hours of services in the home than do employed persons, but less than homemakers who are not employed outside of the home. For example, single males ages 45 to 55 that work full-time, no children under the age of 18, average 13.16 hours of household activities (household production) per week. In contrast, all single retired males living alone spend 18.67 hours in household production each week. The data show that males ages 55 to 64 engage in 16.87 hours of household production per week while retired males ages 65-74 provide 19.23 hours and retired males age 75 and over provide an average of 18.10 hours a week. Mr. Roos stated that post-accident he has performed a significantly fewer number of hours of household service or household production related activities during any given period of time and that is my opinion that Mr. Roos' stated hours of pre-accident household production are comparable to the averages provided by Expectancy Data⁴ statistics.

On the basis of the information previously referenced and on the basis of elaborations provided me by Mr. Roos, it is my opinion that he has suffered a lifetime reduction in his household services capacity in the amount of 5-10 hours per week. This evaluator will utilize the mid-point, or 7.5 hours per week as the reduced household services capacity in this case. With regard to the dollar value of these services, the calculations of this report rely on an hourly replacement cost of \$9.75 per hour, yielding reduced annual household services capacity valued at \$3,803 per year. I note that in arriving at the \$9.75 replacement

³ DeLeire, Thomas. "The Unintended Consequences of the Americans with Disabilities Act." *Regulation*, 2000, 23(1).

⁴ The Dollar Value of a Day, Time Diary Analysis, 2005 Dollar Valuation, published by Expectancy Data, Economic Demographers, Shawnee Mission KS, 2006.

cost value, I relied upon occupational wages published in the publication title 2006 Metropolitan Area Occupation Employment and Wage Estimates: State College, PA – MSA⁵.

Given Mr. Roos' active life expectancy of an additional 22.72 years (from the age of 51.58), the cost and/or loss of household services for him over his expected active lifetime will be \$86,404. Active life expectancy quantifies the expected duration of functional wellbeing, which is sometimes less than the statistical life expectancy of individuals ("Active Life Expectancy," Sidney Katz, M.D., et al, The New England Journal of Medicine, November 17, 1983).

The following tables depict Mr. Roos' past wage loss (to the age of 55 as per his deposition), future loss of wage earning capacity (as his health circumstances would have allowed him to continue to work in the absence of having been seriously injured on 6/27/03), and the value of his household services (which is inclusive from the date of his accident through his active life expectancy age), which can be attributed to the injuries which were inflicted on Mr. Roos in the aforementioned MVA. These calculations are projected from his age at the time of the accident, 51.58 years, to his expected worklife age of 63.03 years (51.58 years chronological age + 11.45 years of expected work), and to the age of 66, which currently is the minimum age a male born in 1951 may retire while receiving full Social Security and Medicare benefits.

TABLE 1
PAST WAGE LOSS: HAROLD J. ROOS, JR.
(9/7/03-11/26/06)

Assumes RTW for Mr. Roos four months following 5/7/03 pre-injury knee surgery with employment continuing to the age of 55 (based on deposition statement as to how long he intended to work).

If physically capable of performing the essential job duties and responsibilities of a union boilermaker @ 2002 annual income of \$61,858 expanded with appropriate COLA increases for the intervening 3.22 years:	\$215,045.33
+ 29.0% fringe benefits ⁶ :	\$62,363.15
PAST WAGE LOSS:	<u>\$277,408.48</u>

⁵2006 Metropolitan Area Occupational Employment and Wage Estimates: State College, PA – MSA. U.S. Department of Labor, Bureau of Labor Statistics.

⁶ United States Department of Labor, Bureau of Labor Statistics. Table 1. *Employer Costs for Employee Compensation – March 2005*. News release, June 16, 2005.

TABLE 2
FUTURE LOSS OF WAGE EARNING CAPACITY:
HAROLD J. ROOS, JR.

No Productivity Factor	TO AGE 63.03 (11.45 yrs. worklife expectancy ⁷)	TO AGE 66
1. PRE-INJURY:		
If physically capable of performing the essential job duties and responsibilities of a union boilermaker @ 2007 annual income of \$70,672.13 which includes the appropriate COLA increases for the intervening years since Mr. Roos last was able to work:	\$507,425.89	\$716,615.39
+ 29.0% fringe benefits:	<u>\$147,153.50</u>	<u>\$207,818.46</u>
	\$654,579.39	\$924,433.85
2. POST-INJURY:		
Not applicable, as Mr. Roos is not employable and possesses no residual wage earning capacity:	<u>\$000,000.00</u>	<u>\$000,000.00</u>
FUTURE WAGE LOSS (1-2):	<u>\$654,579.39</u>	<u>\$924,433.85</u>

TABLE 2A
FUTURE LOSS OF WAGE EARNING CAPACITY:
HAROLD J. ROOS, JR.

2.0% Productivity Factor	TO AGE 63.03 (11.45 yrs. worklife expectancy)	TO AGE 66
1. PRE-INJURY:		
If physically capable of performing the essential job duties and responsibilities of a union boilermaker @ 2007 annual income of \$70,672.13 which includes the appropriate COLA increases for the intervening years since Mr. Roos last was able to work:	\$539,890.66	\$785,798.50
+ 29.0% fringe benefits:	<u>\$156,568.29</u>	<u>\$227,881.57</u>
	\$696,458.95	\$1,013,680.07
2. POST-INJURY:		
Not applicable, as Mr. Roos is not employable and possesses no residual wage earning capacity:	<u>\$000,000.00</u>	<u>\$000,000.00</u>
FUTURE WAGE LOSS (1-2):	<u>\$696,458.95</u>	<u>\$1,013,680.07</u>

TABLE 3
LOSS OF HOUSEHOLD SERVICES:
HAROLD J. ROOS, JR.

390 hrs./yr. (7.5 hrs./wk.) x \$9.75/hr. x 22.72 yrs. = **\$86,404**

⁷ Adjusted for 4.27 yrs. which have elapsed since the 6/27/03 accident.

"Table 2" and "Table 2A," above quantify Mr. Roos' future economic losses with consideration given to his retiring at the statistical worklife age of 63.03 years, and at the institutional retirement age of 66 years. There is no mandatory retirement age in the United States; however, current institutional, technological, demographic and behavioral changes in economic conditions indicate that lifetime labor force participation is increasing, and that "normal" retirement age now extends beyond 65 years (as demonstrated by Mr. Roos' ineligibility to receive full Social Security benefits until the age of 66).

Also, the preceding tables (2 and 2A) have been calculated both with and without a specific value for productivity. The Pennsylvania Supreme Court case of Kaczkowski vs. Bolubasz (1980) outlined the total offset method of computing wage losses. The future increases in earnings due to inflation are totally offset by the reduction of those earnings to their present value.

In addition to using the total offset method, the Kaczkowski decision permits allowances for future increases due to productivity. When considering the facts of this case, the attribution of 2.0% productivity is appropriate in determining Mr. Roos' economic losses, given his age, maturity, education, and vocational skills at the time of his 6/27/03 accident.

Fringe benefits have long been recognized as an essential component of employee compensation. While working as a union boilermaker for the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (IBB) Local 13 it is my opinion that the significant package of fringe benefits that were provided to Mr. Roos was comparable to the national average of 29.0% of additional benefits beyond the direct wages received by employees in the private sector (civilian workers). Attributing a valuation of 29.0% for pre-injury fringe benefits in the above tables (Tables 1 and 2 & 2A) is consistent with the most recent information provided by the U.S. Bureau of Labor Statistics (BLS). Also, Mr. Roos' future Social Security and Medicare may be compromised based on the difference between pre-injury and post-injury earnings (0), where presently an employer contributes 7.65% of annual earnings up to \$97,500 (2007). It should be noted that the federally mandated employer's contribution to the individual's future Social Security benefits extends to annual earnings of \$97,500 (2007), 6.2% of the total of 7.65%, as Medicare benefits are not capped and continue to receive employer contributions at the rate of 1.45% of direct income above \$97,500.

CONCLUSION:

Mr. Roos' debilitated health circumstances (resultant from his 6/27/03 accident) have drastic vocational and economic ramifications for him. I believe the foregoing discussion contained in this evaluative assessment report regarding the vocational and economic implications of this case accurately quantifies Mr. Roos' past and future economic losses in this matter.

Regardless of the specific level of income used as the basis for determining Mr. Roos' economic losses in this matter, it is readily apparent that, prior to being injured on 6/27/03, he possessed the expertise (vocational skills) and motivation to maintain his longstanding employment as a union boilermaker after recovering from his 5/7/03 knee surgery (which he underwent so as to be able to continue working) while working in a job setting which he enjoyed and intended to leave only upon his eventual separation from the work force at the time of his retirement. It is problematical whether that would have been at the age of 55 as Mr. Roos stated in his deposition, or later, as his improved health circumstances would have allowed for his vocational participation well past that age had he not been injured on 6/27/03. His compromised post-accident health circumstances, in conjunction with his rural labor market access area, now will not provide him with the opportunity to return to substantive work activities in an alternate job since his pre-injury union can no longer utilize his vocational skills and abilities to perform any meaningful work activities. The rural labor market circumstances surrounding Morrisdale, PA does *not* offer a plethora of job opportunities even to able-bodied individuals, let alone an individual of advanced age (according to the criteria of the Social Security Administration) such as Mr. Roos who presents with

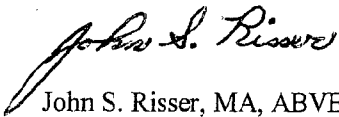
the multitude of adverse health circumstances that already has resulted in the "loss" of his more than thirty years of vested service with the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (IBB) Local 13.

Therefore, as a result of having been injured on 6/27/03, Mr. Roos has sustained a past wage loss and a significant future loss (impairment) of his wage earning capacity. His economic horizons have been shortened, and this shortening has been estimated to range between **\$654,579** and **\$1,013,680**, while his past loss of earnings has been calculated to be **\$277,408** (when calculated only to the age of 55). The value of his household services has been quantified as **\$86,404**. While predicting any future loss with complete certainty is not possible, the reasonable likelihood for Mr. Roos will fall between the extremes of the range identified in this assessment as a function of probability statistics.

Thank you for allowing me to meet with and evaluate the employment and economic potential of this most pleasant and interesting individual. The opinions in this report are being stated with a reasonable degree of vocational/disability evaluation and rehabilitation certainty and are based upon the data/information in this evaluator/examiner's possession at the time this report was written (10/5/07).

Sincerely,

JSR VOCATIONAL & CONSULTING SERVICES



John S. Risser, MA, ABVE, CRC
Diplomate, American Board of Vocational Experts

/jbr

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Bala Cynwyd, PA 19004
(610) 667-4463
Fax (610) 667-4764

Trisha Zaken
Walsh, Collis & Blackmer, PC
The Gulf Tower
Pittsburgh, PA 15219

RE: HAROLD ROOS
CLAIM NO.: 245
DATE OF INJURY: 06/24/03
DATE OF EVALUATION: 06/16/06
DATE OF TRANSCRIPTION: 07/05/06

Dear Ms. Zaken:

I evaluated Harold Roos orthopedically in my State College office on June 16, 2006.

HISTORY OF INJURY:

Mr. Roos is a 54-year-old right handed male whose career is as a welder. On June 24, 2003, he was involved in a motor vehicle accident but this was not in the course of his work. He states he was coming home from therapy for his knees. Mr. Roos, on May 3, 2003, had bilateral knee arthroplasties. They were both done in the same operative sitting. At any rate, Mr. Roos had a "head-on collision" with another vehicle and then went to the hospital. He states his knees were impacted against the dashboard. The seatbelt was fastened, but he noticed back, shoulder, and right arm pain. On further questioning Mr. Roos states he did have problems with his back before, but "not like it is now." There have been x-rays and MRIs as well as an EMG of the upper extremities. There have been a number of injections in the upper and lower back, and he tells me they have been of "no help."

CHIEF COMPLAINT:

Mr. Roos' main complaints are his knees. He states he cannot "get on them." By this he means if he stands for too long, they get somewhat sore and he has trouble kneeling. In fact, he says he cannot kneel. He also states that he cannot climb ladders. There is some right shoulder pain and right arm pain to the elbow, and he also points to the radial aspect of the right forearm as being painful with some tingling. There are no problems with coordination. His neck hurts sometimes.

Exhibit "F"

PAST MEDICAL HISTORY:

Mr. Roos denies any medical problems. He had bilateral carpal tunnel surgery. Present medications are only Tylenol as needed. There are no known drug allergies.

FAMILY HISTORY:

The family history is negative for orthopedic or spinal problems. There is no arthritis in the family, but diabetes and cancer do run in the family.

SOCIAL HISTORY:

Mr. Roos tells me he is single and denies alcohol or tobacco use. He is 54 years old and right handed.

PHYSICAL EXAMINATION:

This is a 5 foot 8 inch male, who states he weighs something over or around 300 pounds. He had a very serious affect, I thought. I checked the range of motion of his lumbar and cervical spine. I also checked thoracic motion. There was full flexion, extension, lateral motion, and rotation throughout the spine. Shoulder motion was also normal, with 180 degrees of abduction bilaterally. External rotation was intact. There was no pain on resistance to any motor testing around the shoulder, and reflexes were physiologic at trace to 1+ both in the upper and lower extremities. A positive impingement sign was noted on the right with tenderness in the right subacromial area. There was no tenderness in the cervical spine and no tenderness in the lumbar spine. Straight leg test in the supine position and in the sitting position was negative bilaterally for low back or leg pain.

When I examined the knees, I saw bilateral brawny pitting edema with discoloration distally. Range of motion was from 0 to about 100 degrees bilaterally. Both knees were stable. I could not find any joint fluid in the knees. I observed Mr. Roos walking. He seems to walk without any evident antalgia. In other words he was walking without a gait indicating pain.

RECORDS REVIEWED:

There were imaging studies today for me to review, and there were a number of other records available. They include the following:

1. Thomas Ellis, DO - office notes/injections - 12/09/96 - 12/30/05.
2. James Howard, DO - office notes eye - 03/14/03 - 01/14/05.
3. Bruno Romeo, MD - office notes/injections - 08/27/03 - 07/12/05.
4. Gregory Bailey, DO - office notes - 06/11/04 - 12/07/05.

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Harold Roos

5. Todd Cousins, DO – office notes/injections – 08/11/04 – 06/13/05.
6. Paul Lamb, DC – office notes – 05/02/05 – 06/13/05.
7. Lewistown Hospital – operative report – 01/06/03.
8. Lewistown Hospital – operative report – 01/20/03.
9. Lewistown Hospital – followup visit (no show) – 02/12/03.
10. Moshannon Valley EMS – EMG bill – 06/27/03.
11. Philipsburg Area Hospital – emergency room – 06/27/03.
12. Diagnostics – MRI – 08/06/04 – 03/16/05.
13. Diagnostics – labs – 04/16/03 – 04/19/04.
14. Diagnostics – cardio – 04/16/03 – 06/01/04.
15. Diagnostics – x-ray – 04/29/03 – 06/06/04.
16. Diagnostics – pathology – 05/08/03.
17. Philipsburg Area Hospital – physical therapy – 05/12/03 – 09/28/04.
18. Harold Roos – deposition.
19. Employment history.
20. Legal.

I took some time to carefully review these records. The deposition of Mr. Roos was included, and that indicated he started having trouble with his back pain, he states, about a month after the motor vehicle accident.

There is the operative note of Dr. Ellis from January 8, 1997, indicating there was a torn medical meniscus of the left knee. Further, Dr. Ellis notes indicates treatment with injections, including Synvisc injections. Mr. Roos was also treated with a semi-rigid orthotic which was ordered on November 2, 2001. Eventually, he developed progressive varus deformities and an arthritic process which did not respond to treatment, particularly on the right. Initially Dr. Ellis wanted to do a right knee arthroplasty but based on the operative note, he performed bilateral knee arthroplasties in early May of 2003. Mr. Roos was doing well at the first postop visit. The motor vehicle accident occurred approximately six and a half weeks after the knee surgery. There was a large anterior contusion of both knees on the evaluation of July 2, 2003 by Dr. Ellis, but there was no evidence of loosening or damage to the prostheses.

By August 4, 2003, Dr. Ellis states, that Mr. Roos was "making excellent progress." Mr. Roos had 0 to 130 degrees of flexion bilaterally with no effusions as of November 21, 2003 and was given a six month appointment on that date to see Dr. Ellis for followup. Dr. Ellis stated there was some very mild pain involving the region of the medial screw based on the reporting of Mr. Roos on February 7, 2005. There were no other complaints at the time.

There is a letter to James A. Naddeo of Clearfield, PA from Dr. Ellis. Evidently, Dr. Ellis was answering some questions but I do not have Mr. Naddeo's letter, so I am not really sure I can comment on this letter of Dr. Ellis.

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Harold Roos

There is a note from Aaron Gerber, PA-C on June 11, 2004, who documents a chief complaint of leg pain. This was over a year after the motor vehicle accident. According to this note, Mr. Roos started having leg symptoms "a few months after the accident." The lumbar CT scan performed on November 13, 2003 at Clearfield Hospital demonstrated multilevel spinal stenosis with facet hypertrophy.

Bilateral low back pain was reported on November 2004 to Todd B. Cousins, DO. According to Mr. Roos in the history of present illness, Dr. Cousins writes, "I did note that he did have lumbar pain dating back to at least 2002 at which time he had undergone injection procedures by Dr. Grover in Lewistown which sounds like lumbar facet joint nerve blocks. He also stated that he had had several injections done on the right side of his back which helped a great deal but only for a short time." I do have the operative reports of some injections done by Dr. Cousins in 2004.

There is a progress note from Paul D. Lamb, DC who is also associated with University Orthopedics. Dr. Lamb states that back and neck pain are constant and have been there for approximately one year. The patient notes nothing specific at that time that created the symptom onset. That would indicate that back and neck pain would have begun approximately May 2004, many months after the motor vehicle accident.

I find no evidence of prior treatment for the neck pain, in particular, prior to that date in the records available to me today. Numerous reports indicate that there is spinal stenosis in the lumbar spine and a MRI indicates multiple disc protrusions which are called herniations by the radiologists, Dr. Trybus at C5-6, C6-7 with some narrowing of the spinal cord. This is on a report from an open MRI/CT dated March 16, 2005.

Also included in the records are some notes having to do with pulmonary problems. They have no bearing on this evaluation or Mr. Roos' present complaints, in my opinion.

The physical therapists, Pam Kephart and Keith Hahn, indicate that both knees are feeling very good on July 25, 2003 about one month after the motor vehicle accident.

RADIOLOGIC STUDIES REVIEWED:

1. CT lumbar spine 11/17/03 shows stenosis and facet arthropathy.
2. Lumbar spine x-ray - arthritis at all levels.
3. 02/07/05 and 09/27/05 knee x-ray demonstrates good knee replacement bilaterally.
4. 06/27/03 left and right knee x-rays - no damage to the knee replacement.
5. March 16, 2005 C-spine MRI shows multi level degenerative disc disease and disc osteophyte complex to right at C5-6.
6. 11/18/02 x-ray right shoulder demonstrates calcific tendonitis.

June 16, 2006

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Harold Roos

DIAGNOSIS:

1. Anterior contusion both knees related to the motor vehicle accident, resolved
2. Bilateral total knee replacements, not related to the motor vehicle accident
3. Spinal stenosis, not related to the motor vehicle accident
4. Cervical spine stenosis and probable osteophytes and disc herniation C5-6 and C6-7, not related to the motor vehicle accident based on the records

IMPRESSION AND COMMENTS:

The inability to stand on a total knee replacement for long periods of time is not unusual. If you closely ask individuals if they have some pain after a total knee replacement, most of them will admit they have some symptoms. The older the person is, the less pain they seem to have, and Mr. Roos is on the younger side plus he is a very heavy man and is putting tremendous stress across his total knee arthroplasties. There is no evidence of loosening or any structural change in either knee based on Dr. Ellis' reporting or my own reading of the imaging studies subsequent to the motor vehicle accident. There was a contusion, which apparently resolved and Mr. Roos was doing very well after the motor vehicle accident, according to Dr. Ellis and the physical therapy people.

The cervical spine disc herniation is unlikely to have occurred as a result of the motor vehicle accident because there were no complaints until many months later. If one has significant post traumatic disc herniation, one will have complaints within 72 hours, in my experience. However, there is no evidence in the clinical records that the motor vehicle accident resulted in the disc herniations in the cervical spine.

The lumbar spine is a chronic preexisting problem. Even on Mr. Roos' history, he did not have problems until, he states, about a month after the motor vehicle accident. A lumbar strain will give symptoms immediately or certainly within a 24 hour period, in my experience. Since he had prior problems with his low back and since his problems are progressive, it is not at all unreasonable for him to develop not only back pain but leg pain as the months go on. Spinal stenosis will frequently do that, and no trauma is necessary to develop leg pain, nor is it necessary to impose traumatic etiology in this case. Once again, the time element of history is one which does not support, within a reasonable degree of medical certainty, that any leg symptoms from the lumbar spine stenosis are related to the motor vehicle accident.

In summary then, Mr. Roos had contusions of both of his knees at the time of motor vehicle accident. I can find no evidence from the chart that indicates he had any other significant injuries and at the present time, his knees have recovered from the contusions. His symptoms with regards the knees are related to his surgery and his weight. His symptoms with regards to his lumbar spine are related to a preexisting arthritic process and stenosis. His leg pain is also related to the stenosis, and his cervical spine pain is related to a degenerative process with

June 16, 2006

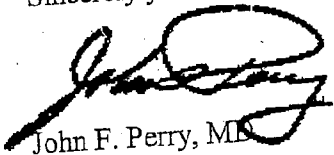
-6-

Harold Roos

probable superimposed disc herniation but that cannot be implicated, in my opinion, as being the result of the motor vehicle accident because there were no complaints of cervical spine symptoms in the record, or even in the history of Mr. Roos, until very much after the motor vehicle accident that occurred.

It was a pleasure evaluating Harold Roos orthopedically. Thank you very much for referring him to me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John F. Perry, MD". The signature is stylized with a large, looping initial "J" and a long, sweeping underline.

JFP/as

(1464C8199)

1A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.
Plaintiff

vs.

ROBERT W. BISCH and TRIMOUNT, INC.,
Defendants

* NO. 05-357-CD
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ORDER

NOW, this 3rd day of October, 2008, it is the ORDER of this Court that that argument on the Plaintiff's Fourth Motion in Limine be and is hereby scheduled for the 14th day of October, 2008 at 1:30 p.m. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

FILED

012:28/31
OCT 06 2008

5 William A. Shaw
Prothonotary/Clerk of Courts

100 Atty: Naddo
Vugrinovich
Gill

FILED

OCT 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/6/08

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
Plaintiff

vs.

ROBERT W. BISH and TRIMOUNT, INC.,
Defendants

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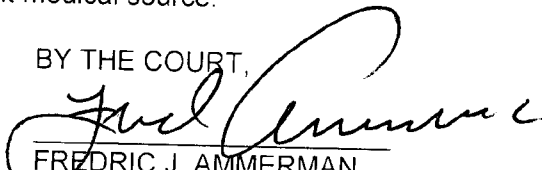
NO. 05-357-CD

ORDER

NOW, this 15th day of October, 2008, this being the date for set for argument on various pre-trial Motions, it is the ORDER of this Court as follows:

1. Upon agreement of counsel for the Plaintiff, the Defense Motion in Limine to Preclude Evidence of Plaintiff's Alleged Back Injuries is hereby GRANTED;
2. The Defendant's Objection to Deposition Testimony filed on September 12, 2008 is hereby DENIED. The Court believes that the information contained in the report of Dr. Thomas J. Ellis dated December 30, 2005 and letter of September 21, 2007 provide a sufficient basis for the opinion in question given during the Doctor's deposition;
3. The Plaintiff's Fourth Motion in Limine is hereby DISMISSED to the extent that the Defendants' economist, J. K. Jarrell, may provide testimony including the following statement from his report "given his history of knee problems the left and right artificial knees, lumbar problems and the physical demands (bending, stooping, kneeling, climbing) of his work lifelong occupation, boilermaker, it is unlikely that he would have been able to return to that occupation regardless of the MVA event on 6/27/03." It is the ruling of the Court that Mr. Jarrell is not a medical expert and not permitted to independently give medical opinions in his report or during his testimony. However, Mr. Jarrell shall be permitted to give testimony as set forth above in the event that that medical opinion is made part of the record during trial from another competent medical source.

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

FILED

OCT 15 2008

William A. Shaw
Prothonotary/Clerk of Courts

2cc Atty's: Vugrovich & Gill
Noble

FILED

OCT 15 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/5/08

☐ You are responsible for serving all appropriate parties.

☒ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☒ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: October 20, 2008

⁵
FILED NO CC
013:37/21
OCT 20 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Amended Notice of Taking Deposition was served on the following and in the following manner on the 20th day of October, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

And

Snyder Court Reporting
535 Smithfield Street
Pittsburgh, PA 15222

NADDEG & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff
v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

No. 05-357-CD

Type of Pleading:

CERTIFICATE OF SERVICE

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

Dated: October 20, 2008

5
FILED *no ec*
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OCT 20 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

I, James A. Naddeo, Esquire, do hereby certify that a true and correct copy of Notice of Taking Deposition was served on the following and in the following manner on the 20th day of October, 2008:

First-Class Mail, Postage Prepaid

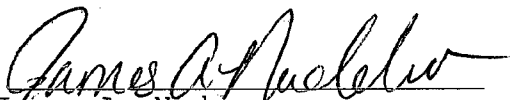
Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

And

Snyder Court Reporting
535 Smithfield Street
Pittsburgh, PA 15222

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

Walsh, Collis & Blackmer, P.C.

Paul J. Walsh III +
Pamela V. Collis
Marna K. Blackmer
Adam M. Barnes +
Trisha A. Gill
Steven L. Minnich

The Gulf Tower
Suite 1400
707 Grant Street
Pittsburgh, Pennsylvania 15219

Phone: (412) 258-2255
Facsimile: (412) 263-5632

Gina M. Zumpella *
Natalie A. Troilo *
Thomas E. Zumpella
David J. Fisher
John M. Polena

+ Admitted to Practice in Ohio and West Virginia
* Admitted to Practice in West Virginia
▪ Admitted to Practice in New Jersey

Of Counsel:
Anne M. Paul

October 20, 2008

Prothonotary's Office
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

In Re: Harold J. Roos, Jr. vs. Robert W. Bisch & Trimount, Inc.
Court No. : 2005-00357 CD
Our File No. : 245

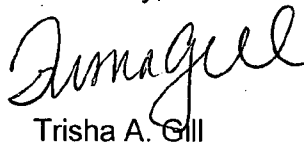
To Whom It May Concern:

Enclosed is Defendants' Motion to Strike Plaintiff's Fourth Supplemental Pre-Trial Memorandum. This matter is scheduled for a Jury Trial in front of The Honorable Fredric J. Ammerman beginning on Monday, October 27, 2008. As such, I have provided a courtesy copy to Judge Ammerman. It is my expectation to present this on Monday October 27, 2008 prior to the beginning of trial, unless otherwise directed by Judge Ammerman.

If you have any questions, please call me.

Thank you.

Sincerely,


Trisha A. Gill

TAG:mmf
Enclosure

cc: The Honorable Fredric J. Ammerman
James Naddeo, Esquire (w/enc.)

No action
10/21
RJW
Case
Settled
today

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

ORDER OF COURT

And Now, to wit, this _____ day of _____, it is hereby
ORDERED, ADJUDGED and DECREED, that Defendant's Motion to Strike
Plaintiff's Fourth Supplemental Pre-Trial Memorandum is **GRANTED**. Plaintiff is
precluded from offering testimony of witnesses Gene Emeigh, Nicole English,
Thomas Veres and Rebecca Lannen at the time of trial.

BY THE COURT:

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

HAROLD J. ROOS, JR.,

Plaintiff,

vs.

ROBERT W. BISH and TRIMOUNT, INC.,

Defendants.

CIVIL DIVISION

Docket No.: 2005-00357 CD

**MOTION TO STRIKE PLAINTIFF'S
FOURTH SUPPLEMENTAL PRE-TRIAL
STATEMENT AND TO PRECLUDE
TESTIMONY OF NEW WITNESSES
IDENTIFIED THEREIN**

Filed on Behalf of the Defendants

Counsel of Record for This Party:

TRISHA A. GILL, ESQUIRE
P.A. I.D. No. 83751

WALSH, COLLIS & BLACKMER, P.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

(412) 258-2255

#245

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OCT 21 2008 610
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

HAROLD J. ROOS, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 2005-00357 CD
(Jury Trial Demanded)

vs.

ROBERT W. BISH and
TRIMOUNT, INC.,

Defendants.

**MOTION TO STRIKE PLAINTIFF'S FOURTH SUPPLEMENTAL PRE-TRIAL
STATEMENT AND TO PRECLUDE TESTIMONY OF NEW WITNESSES
IDENTIFIED THEREIN**

AND NOW, come the Defendants, Robert W. Bish and Trimount, Inc., by and through their undersigned attorneys, Walsh Collis & Blackmer, PC, and Trisha A. Gill, Esquire, and file the following ***Motion to Strike Plaintiff's Fourth Supplemental Pre-Trial Memorandum and to Preclude Testimony of New Witnesses Identified Therein*** and aver as follows:

1. This matter involves a motor vehicle collision that occurred in June 2003. A jury trial is scheduled for **October 27-29, 2008**.
2. On **May 15, 2008**, Plaintiff filed his first Pretrial Memorandum pursuant to Clearfield County Rule 212.4(e). On **June 12, 2008**, Plaintiff filed a Second Pre-Trial Memorandum. On **July 10, 2008**, Plaintiff filed a Third Supplemental Pre-Trial Memorandum. **A pre-trial conference in this matter was held on July 17, 2008.**

3. On **October 16, 2008**, Plaintiff filed a Fourth Supplemental Pre-Trial Memorandum. In this last minute Pre-Trial Memorandum, Plaintiff identifies new fact witnesses he intends to call at trial:

- a. Gene Emigh
- b. Nicole English
- c. Thomas Veres; and
- d. Rebecca Lannen.

None of the aforementioned witnesses were listed in the prior three pre-trial memoranda filed by the Plaintiff.

4. Clearfield County Rule of Court 212.4(f) establishes that, **"Once a pre-trial conference has been held, a party shall not have the right to call any witness where the witness was not listed in the pre-trial statement, to call an expert witness where the report was not appended to the pre-trial statement, or to present any exhibit, photography, plot or plan not listed or appended in the pre-trial statement unless application is made to the Court setting forth the reasons the witness, the report, the exhibit, photograph, plot or plan was not listed or appended to the pre-trial statement..."**

5. On October 16, 2008, without seeking leave of Court required by Local Rule 212.4, Plaintiff filed his fourth pre-trial memorandum listing new witnesses he intends to call at trial beginning on October 27, 2008. This is in clear violation of the Local Rules of this Honorable Court. Moreover, this Defendant is now subject to unfair surprise and is severely prejudiced in light of the disclosure of new witnesses.

6. Pursuant to Rule 212.4(f), Plaintiffs may not call the following witnesses at the time of trial:

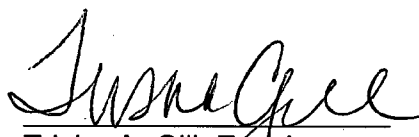
- a. Gene Emigh
- b. Nicole English
- c. Thomas Veres; and
- d. Rebecca Lannen.

WHEREFORE, these Defendants Respectfully Request this Honorable Court to **GRANT** the within Motion to Strike Plaintiff's Fourth Supplemental Pre-Trial Memorandum and **preclude** the testimony of newly identified witnesses Gene Emeigh, Nicole English, Thomas Veres and Rebecca Lannen at the time of trial.

Respectfully submitted,

Walsh, Collis & Blackmer, P.C.

By


Trisha A. Gill, Esquire
Counsel for the Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **MOTION TO STRIKE FOURTH PRE-TRIAL MEMORANDUM AND TO PRECLUDE TESTIMONY OF WITNESSES IDENTIFIED THEREIN** has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 20th day of October, 2008.

James Naddeo, Esquire
207 East Market Street
P.O. Box 552
Clearfield, PA 16830

Respectfully submitted,

Walsh, Collis & Blackmer, P.C.

By



Trisha A. Gill, Esquire
Counsel for the Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,

Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,

Defendant

No. 05-357-CD

Type of Pleading:

**PRAECIPE TO SETTLE AND
DISCONTINUE**

Filed on behalf of:
Plaintiff

Counsel of Record for
this party:

James A. Naddeo, Esq.
Pa I.D. 06820

NADDEO & LEWIS, LLC
207 East Market Street
P.O. Box 552
Clearfield, PA 16830
(814) 765-1601

FILED

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DEC 05 2008

ICC 02 Cert.
of Disc. to
Att. Naddeo

William A. Shaw
Prothonotary/Clerk of Courts

(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

vs.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendants

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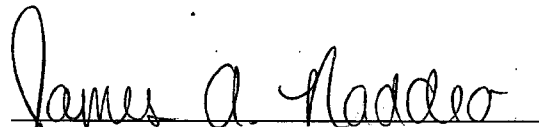
No. 05 - 357 - CD

PRAECIPE TO SETTLE AND DISCONTINUE

TO THE PROTHONOTARY:

Please mark the above-captioned case settled and
discontinued.

Naddeo & Lewis, LLC


James A. Naddeo, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

HAROLD J. ROOS, JR.,
an Individual,
Plaintiff

v.

ROBERT W. BISH and
TRI MOUNT, INC., a,
Corporation,
Defendant

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No. 05-357-CD

CERTIFICATE OF SERVICE

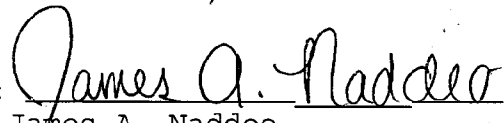
I, James A. Naddeo, Esquire, do hereby certify that a
certified copy of Praecipe to Settle and Discontinue and
Certificate of Discontinuation were served on the following and in
the following manner on the 5th day of December, 2008:

First-Class Mail, Postage Prepaid

Trisha A. Gill, Esquire
WALSH, COLLIS & BLACKMER, L.L.C.
The Gulf Tower, Suite 1400
707 Grant Street
Pittsburgh, PA 15219

NADDEO & LEWIS, LLC

By:


James A. Naddeo
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Harold J. Roos Jr.

Vs.
Robert W. Bish
Tri Mount, Inc.

No. 2005-00357-CD

CERTIFICATE OF DISCONTINUATION

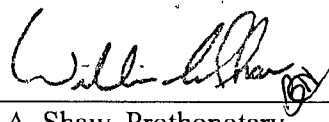
Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 5, 2008, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by James A. Naddeo, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 5th day of December A.D. 2008.



William A. Shaw, Prothonotary